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EA-87-02



ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 301

DATE: Tuesday, April 2, 1991

BEFORE:

A. KOVEN Chairman

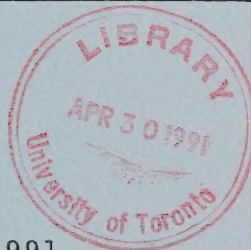
E. MARTEL Member

FOR HEARING UPDATES CALL (COLLECT CALLS ACCEPTED) (416)963-1249

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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER of a Notice by The Honourable
Jim Bradley, Minister of the Environment,
requiring the Environmental Assessment
Board to hold a hearing with respect to a
Class Environmental Assessment (No.
NR-AA-30) of an undertaking by the Ministry
of Natural Resources for the activity of
Timber Management on Crown Lands in
Ontario.


Hearing held at the offices of the Ontario
Highway Transport Board, Britannica Building,
151 Bloor Street West, 10th Floor, Toronto,
Ontario, on Tuesday, April 2nd, 1991,
commencing at 10:30 a.m.

VOLUME 301

BEFORE:

MRS. ANNE KOVEN
MR. ELIE MARTEL

Chairman
Member



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I N D E X O F P R O C E E D I N G S

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I N D E X O F E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
1782	Three-page excerpts from the Regional Guide for the Eastern Region in the U.S., of the U.S. Department of Agriculture and Forestry Service.	53527
1783	Three-page document entitled: Hiawatha National Forest, Michigan, dated July 14th, 1989, amendment No. 3, Forest Land and Resource Management Plan.	53532
1784	Excerpts from Report of the Forest Service, fiscal year 1988, dated February, 1989.	53545
1785	MOE Interrogatories re: FFT Panel No. 10.	53559
1786	Interrogatory package as follows: OFAH Nos. 8, 18, 25, 26, and 32; OFIA Nos. 5, 8, 10, 11 and 13; MOE No. 7; and MNR Nos. 3, 4, 5, 6, 7, 8, 19, 21, 26, 27, 29, 33 and 44.	53588
1787	Two-page document entitled: Comparison of U.S. FS and OMNR prepared by MNR.	53588
1788	Document entitled Summary and Evaluation of Public Input, Fort Frances District Land Use Plan, October, 1982.	53634

1 ---Upon commencing at 10:30 a.m.

2 MADAM CHAIR: Good morning. Please be
3 seated.

4 Mr. Freidin?

5 MR. FREIDIN: No.

6 MADAM CHAIR: Nothing.

7 Good morning, Ms. Swenarchuk, Mr. Smith.

8 THE WITNESS: Good morning.

9 MADAM CHAIR: Mr. Cosman. All set, Mr.
10 Cosman?

11 MR. COSMAN: Yes, Madam Chair.

12 ZANE SMITH; Resumed

13 CONTINUED CROSS-EXAMINATION BY MR. COSMAN:

14 Q. Mr. Smith, and perhaps we'll start
15 with an easy one, I hope it will be an easy one. Will
16 you agree with the following statement as describing
17 the U.S. forest planning situation today.

18 I'll state it and if you need me to state
19 it again, I will:

20 "Public forest land managers are faced
21 with unprecedented challenges and dilemmas
22 as they attempt to manage for increased
23 demands for multiple purposes including
24 wilderness on a static resource base."

25 I'll say it again:

1 "Public forest land managers are faced
2 with unprecedented challenges and dilemmas
3 as they attempt to manage for increased
4 demands for multiple purposes including
5 wilderness on a static resource base."

6 A. Yes, I agree with that.

7 Q. And one of the factors at work in the
8 United States, as you stated in your evidence last
9 week, to account for this is the increased demands of
10 increasing urban populations for recreational space?

11 A. That's one of the factors, yes.

12 Q. All right. Now, when you said in
13 your evidence that the next generation of forest plans
14 would hopefully take less time to prepare than the
15 first generation of forest plans - and you guessed
16 about two years - that was speculation on your part;
17 wasn't it?

18 A. That's correct.

19 Q. Now, with the competing demands for
20 public forest land and increasing conflict, as the
21 literature we reviewed disclosed, you'll agree that it
22 could take more than two years to produce the next
23 generation of forest plans?

24 A. I would agree that it could, but I
25 doubt that it will. There is already evidence of

1 measures being taken, concern about the time and some
2 specific things that are proposed to alter that in such
3 a way that they would take considerably less time.

4 Q. But, again, that's speculation on
5 your part?

6 A. Well, it's speculation based on
7 modifications and changes that are underway in the
8 planning system. So it may be speculation, yes, but
9 it's based on some evidence of change.

10 Q. And there are increasing conflicts
11 and increasing public demands, the extent of which
12 today we're not going to really -- we do not have a
13 full appreciation of at the time that the new
14 generation of forest plans are going to have to come
15 into effect, which is 10 years approximately after the
16 first generation plans are in force?

17 A. Well, again, it's my --

18 Q. You can't speculate on that. That's
19 all speculation, again; isn't it?

20 A. Perhaps it's speculation, but in my
21 opinion the majority of the big issues are probably
22 behind us in terms of at least having addressed them
23 partially, having partially resolved them.

24 I think we have gone over a -- through a
25 period of catching up with a good deal of controversy

1 surrounding land use purpose, and now that a lot of
2 those purposes have been resolved and the next
3 generation of planning, in my view, will not be nearly
4 as complicated.

5 Q. Oh, I hear you say that, but 15 years
6 after the legislation that required forest plans, we
7 know from the evidence that roughly half of the forest
8 plans have not been settled in final form and have
9 outstanding appeals, and we know that eight plans in
10 the west haven't even been completed in the first
11 instance; isn't that true?

12 A. I think that is true, but that is
13 probably not unexpected.

14 Q. Let's talk about the planning of the
15 timber sale in the United States. We saw that there
16 are two elements or two levels of planning. You've got
17 the land use planning and then you've got the planning
18 of the timber sale.

19 Land use planning ends up in a forest
20 plan, the planning of the timber sale results with an
21 approved sale and an actual sale taking place.

22 Now, you said in your witness statement
23 that, and I quote:

24 "The industry approach is a worthy

25 approach for functional timber management

1 planning. It would not result in
2 integrated planning for all resources."

3 That was your evidence. Now, would you
4 be surprised if I told you that the industry plan was
5 not designed as an integrated plan for all forest
6 resources?

7 A. Well, I would agree that it is not.

8 Q. All right. To analogize with the
9 United States system - and I think you've talked about
10 different tiered levels of planning - you said there
11 was nothing wrong with the planning of the timber sale
12 or a timber operational plan provided that it is tiered
13 to a land use plan such as your forest plan that
14 provides an integrated plan for all resources; is that
15 a fair statement?

16 A. I think that's a fair statement.

17 Q. And the forest plan itself, that is
18 the land use plan, does not authorize the building of
19 access roads, does not authorize timber cutting, just
20 so we have it absolutely clear, there's a separate
21 timber management or timber sale planning process that
22 the Forest Service goes through in the United States
23 which involves proposed activities, development of
24 alternatives, analysing environmental impacts, public
25 participation, and it results in a decision that may be

1 appealed. That level of planning takes place with
2 respect to a timber sale?

3 A. A timber sale project.

4 Q. Yes.

5 A. That's correct. It's not analogous
6 to a functional timber management plan which has really
7 been set aside in this planning process.

8 Q. I understand in the United States it
9 has, but in terms of those activities which I
10 described, with respect to a timber sale there is
11 planning in the way I've described it.

12 With respect to a timber sale, the Forest
13 Service goes through proposed activities, access, and
14 other activities, the development of alternatives, the
15 analysis of environmental impacts, public
16 participation, and a decision which may be appealed?

17 A. That is essentially correct.

18 Q. All right. I would like to go to
19 your clearcut evidence, and you were asked about
20 advantages and disadvantages to setting clearcut
21 limits, and you properly said that your experience was
22 in the context of your management experience in the
23 west, and I wish to explore that with you.

24 You don't pretend to be a silvicultural
25 expert for the northern boreal forest; do you?

1 A. I don't pretend to be a silvicultural
2 expert anywhere.

3 Q. All right. Now, are you familiar
4 with the Regional Guide for the Eastern Region in the
5 United States?

6 A. Only that it exists.

7 Q. All right. Do you know what it says
8 about clearcuts?

9 A. I can't say that I do.

10 MR. COSMAN: Madam Chair, I would tender
11 as the next exhibit excerpts from the Regional Guide
12 for the Eastern Region in the U.S. of the U.S.
13 Department of Agriculture and Forestry Service, and
14 what I am tendering are three pages which, you'll see
15 when you look at them, are similar to the pages for the
16 western guide that we referred to with respect to
17 openings, temporary openings created by the application
18 of even-aged silviculture.

19 MADAM CHAIR: That will be Exhibit 1782.

20 MR. COSMAN: (handed)

21 THE WITNESS: Thank you.

22 ---EXHIBIT NO. 1782: Three-page excerpts from the
23 Regional Guide for the Eastern
24 Region in the U.S., of the U.S.
 Department of Agriculture and
 Forestry Service.

25 MR. COSMAN: Again, Madam Chair, there's

1 some handwritten notes on the copy that was
2 photocopied. That is not the evidence, the evidence is
3 only the typed original document. I'm going to ask him
4 questions about it.

5 Q. Now, if you turn to page 3-15 you'll
6 see a clearcut requirement, and I would like to go
7 through it with you and I'm going to step down to the
8 paragraph just before the indentation where it says:

9 "The maximum size of temporary openings
10 created by even-age management is 40
11 acres, except as provided in (1) to (4)
12 below.

13 No. 1) 370 acres in jack pine type for
14 Kirkland's Warbler habitat on the
15 Huron-Manistee National Forest;

16 2) 200 acres in aspen, birch, conifer
17 types within areas managed for moose
18 habitat on the Superior National Forest."

19 Now, do you know where the Superior
20 National Forest is, Mr. Smith?

21 A. Yes I do.

22 Q. Could you just, having regard to
23 Exhibit 1756, identify it for the Board?

24 A. This is the Superior National Forest,
25 northeastern Minnesota, adjacent to Lake Superior, this

1 block right here. (indicating)

2 Q. And I'm suggesting to you that you
3 have a forest type similar -- would have a forest type
4 similar to the forests that we have across the border
5 in Ontario. Are you able to comment on that?

6 A. That's my understanding.

7 Q. And thirdly:
8 "300 acres in designated special
9 management areas in the Hiawatha, Ottawa,
10 Shawamigan...", perhaps you could spell
11 it.

12 A. Shawamigan.

13 Q. "...Shawamigan, and Huron-Manistee
14 National Forest for sharp-tailed
15 grouse, sand-hill crane."

16 And again with respect to the Hiawatha,
17 Ottawa, Shawamigan and Huron-Manistee National Forest,
18 could you identify those for the Board on Exhibit 1756?

19 A. They also are in this area of the
20 lake states, these green blocks within the lake states
21 area.

22 Q. Thank you. And in addition to those
23 specs you have -- under 4) it says:

24 "Exceptions in the regulations which are:

25 a) on an individual scale basis after 60

1 days' public notice and review by the
2 regional forester."

3 Which means that the regional forester
4 can have an increased size over the sizes that are
5 specified for clearcuts but with public notice; isn't
6 that right?

7 A. I'm not sure I understand what
8 reference you're making.

9 Q. Okay. I'm referring to the No. 4
10 exception at the bottom of the page, if you turn over
11 to the next page--

12 A. Yes.

13 Q. --you have:

14 "on an individual scale basis after 60
15 days' public notice and review by the
16 regional forester."

17 And I'll take b) with it:

18 "as a result of natural catastrophic
19 conditions such as fire, insect, disease
20 attack or wind storm."

21 So what it's saying is that there can be
22 exceptions to the size of these clearcuts with proper
23 notice in one case and when there are specific natural
24 catastrophies in others?

25 A. I don't read it quite that way.

1 Q. All right. How do you read it?

2 A. I read it as the first three as sort
3 of ready-made exceptions and the fourth one, other
4 exceptions to the 40 acre size limit.

5 Q. All right.

6 A. But not exceptions to the 370, 200
7 and 300.

8 Q. Okay. Well, taking it the way you
9 read it - and I realize you haven't read these before
10 and haven't worked with these eastern guidelines - even
11 taking the way you read it, there can be exceptions to
12 the 40-acre clearcut prescription upon notice in the
13 first case or where there has been a natural
14 catastrophe?

15 A. That's accurate and I think that's
16 probably pretty standard language in all regional
17 guides.

18 Q. And I'm going to put before you an
19 amendment with respect to the Hiawatha National Forest
20 dated July 14th, 1989.

21 MR. COSMAN: And I file this, Madam
22 Chair, as the next exhibit. It's Hiawatha National
23 Forest in Michigan dated July 14th, 1989, amendment No.
24 3, Forest Land and Resource Management Plan. (handed)

25 MADAM CHAIR: That will be Exhibit 1783,

1 and that is also a three-page document.

2 ---EXHIBIT NO. 1783: Three-page document entitled:
3 Hiawatha National Forest,
4 Michigan, dated July 14th, 1989,
amendment No. 3, Forest Land and
Resource Management Plan.

5 MR. COSMAN: Q. Now, you've identified
6 already the Hiawatha Forest on the map in the Great
7 Lakes area. I would like you to turn to this amendment
8 if you would and you'll see, just reading the digest
9 from the front page, that it adds:

10 "Maximum permanent opening size limits of
11 40 acres to the standards and guidelines
12 for certain specified management areas,
13 and 500 acres to the forest-wide
14 standards and guidelines for designated
15 sharp-tailed grouse habitat identified in
16 Appendix P. The original analysis for
17 the forest plan was based upon these
18 limits but they were inadvertently
19 omitted from the final forest plan text.
20 The amendment corrects this omission."

21 And you'll see the correction notice over
22 the page with respect to that and you'll see, just as a
23 a matter of interest in turning to the second page -- I
24 take it this would have been classified as an
25 administrative amendment just from that last paragraph,

1 and I wonder if you could just read that and confirm
2 it?

3 A. The last paragraph?

4 Q. On page 2.

5 A. On page 2 where it begins, it says:
6 "Primary issues...."?

7 Q. No, sorry, the last page. There are
8 three page to that.

9 A. Okay. Yes. I assume this was
10 considered an amendment instead of a revision.

11 Q. Yes. And I think that is how it's
12 categorized on the front of the amendment for the
13 Hiawatha plan.

14 A. Yes.

15 Q. And let me suggest this to you in
16 conclusion with respect to this, that what may be
17 appropriate for clearcut size in one region may be
18 different in another region for various factors, for
19 silvicultural reasons, for wildlife reasons as we have
20 seen on the face of it here, or even for socio-economic
21 reasons?

22 A. I haven't read this completely, but
23 my impression in looking at this is the deviation from
24 clearcut maximums is tied to other than timber resource
25 values, values such as -- well, specifically, wildlife

1 here and, to some degree, forest health following a
2 catastrophe of some sort.

3 I don't see that it has anything -- any
4 connection whatsoever to timber management purposes or
5 to economics of timber management.

6 Q. Well, you don't know; do you, what
7 went into the discussions and decisions that led to the
8 370-acre opening on the Huron-Manistee National Forest
9 or the 200-acre openings that are permitted under the
10 eastern guide for moose habitat on the Superior
11 National Forest.

12 I mean clearly on the face of the
13 document it talks about wildlife habitat, but you don't
14 know what discussions with the various parties, with
15 industry went into the ultimate decision to incorporate
16 those particular numbers in the guide?

17 A. That's correct, I don't, I wasn't
18 privy to those discussions, however, I would be willing
19 to bet almost anything that it had to do with wildlife
20 habitat purposes and not timber management or economics
21 of timber management.

22 Q. So you're saying in the United States
23 economics of timber management would not be a part that
24 the U.S. Forestry Service today would take into account
25 in setting the size of clearcuts, that they would do it

1 for wildlife?

2 A. They would do it for other resource
3 purposes. It might be wildlife or other purposes, but
4 economics are always a consideration, but economics and
5 timber purposes would not be enough, in my view, to
6 exceed the clearcut limits.

7 Q. Well, let's see if you can agree with
8 this statement. I will put it to you, again. What may
9 be appropriate for clearcut size in one region may be
10 different in another region for silvicultural reasons.
11 That's not difficult to agree with?

12 A. I can agree with that.

13 Q. All right. For wildlife reasons.
14 You've seen that right on the face of the Hiawatha
15 amendment?

16 A. I can agree with that.

17 Q. And even socio-economic reasons?

18 A. I have a little more difficulty with
19 that. I would have to see that in the context of the
20 issues.

21 There are other things that relate to
22 clearcut size as well, either limiting or expanding
23 them, such as biodiversity and sustainability.

24 My own view, in the United States these
25 matters are driven within the constraints offered by

1 sustainability and biodiversity and that relates to
2 soil, water, you know, the basic resources and the
3 basic productivity of the lands.

4 Within those constraints, and I think
5 there are exceptions created for enhancing moose
6 habitat, for example, or some other thing.

7 The social-political aspect I am not
8 sure, nothing jumps into my mind that would be a good
9 example of that.

10 Q. So if I can summarize then, there may
11 be natural reasons or natural environment reasons,
12 silvicultural reasons or wildlife reasons for setting a
13 specific size of clearcut, but under the U.S. system
14 today - I want you to be clear on this, if it's
15 accurate - you're telling the Board that socio-economic
16 reasons would not be a factor?

17 A. Well, I'm saying I can't really think
18 of an example. I believe if socio-economic,
19 socio-political factors were considered, it would still
20 be done within the constraints offered by biodiversity
21 and sustainability of the resource.

22 Q. So in terms of the 200 acres for
23 moose management areas in the Superior National
24 Forest - I realize you don't have the background to
25 that limit set by the U.S. Forest Service - but it

1 could be that that was driven by moose habitat
2 reasoning or rationale, but it could also -- but you're
3 not telling this Board that in setting this limit for
4 moose purposes that that the U.S. Forestry Service
5 would ignore socio-economic factors?

6 A. Of course not. You know, obviously
7 the socio-economic-political factors could have
8 constrained that or expanded it to some extent, but
9 still within the framework of the basic purpose of
10 enhancing moose habitat and the capability of the land
11 itself.

12 Q. All right. I want to -- in this
13 discussion about the advantages and disadvantages of
14 clearcuts you gave some evidence about a forest fire,
15 and quite properly again you limited this to your
16 experience in the west on whether clearcuts approximate
17 forest fires.

18 Will you agree that fire management, fire
19 behaviour and forest fire disturbance is a field where
20 in fact experts spend careers?

21 A. Of course.

22 Q. And would you agree that on this
23 issue it would be helpful for the Board if a person
24 with expertise on forest fire disturbance in the
25 northern boreal forest were to testify?

1 A. I think that would be valuable to the
2 Board. I don't think the Board would find that there
3 are conceptually any differences, but the distribution,
4 frequency and the spacial aspects of the boreal forest
5 compared to another forest type would certainly be
6 different.

7 The concepts though of forest fire or
8 clearcutting as we experienced it, emulating forest
9 fire I think is almost universally viewed as not a
10 duplicate, depending on how it's accomplished.

11 Q. And you do not; you yourself are not
12 an expert on forest fire management?

13 A. No.

14 MR. COSMAN: All right. And I call the
15 Board's attention to Dr. Methven's evidence. Thank
16 you.

17 Q. Now, with respect to wildlife you
18 made a statement that struck me, and see if I
19 understood it.

20 You said that from your experience
21 wildlife crashes with a clearcut. Now, again, I know
22 you're not a wildlife expert, but I want to clarify
23 something. You're not saying in the context of the
24 boreal forest that wildlife dies off with a clearcut,
25 but merely that it moves to other areas; isn't that

1 accurate?

2 A. Not exactly and I have to confine my
3 experience to the U.S., where on private lands what we
4 would consider very large clearcuts occur, in
5 particular drainages, that created in the early
6 successional stages great amounts of wildlife habitat,
7 say, for deer or elk, a lot of shrubs and forbs and so
8 forth which actually created an increase in population
9 of those wildlife species, and then as that forest
10 began to close over in the later successional stages,
11 those shrubs and forbs went out of the picture and the
12 area would not sustain the levels of increased wildlife
13 populations, and that is when I said the population
14 begins to crash because there isn't necessarily another
15 place go. There may or may not be.

16 Q. And in the concept of the boreal
17 forest there may or may not be?

18 A. Of course.

19 Q. And you can't speak as a wildlife
20 expert nor as an expert on the boreal forest to answer
21 that question?

22 A. I can't speak as an expert on the
23 boreal forest, but I can speak from experience in
24 dealing with the issue with wildlife biologists and
25 silviculturalists what has happened in the United

1 States.

2 Q. And in fact from the eastern guide
3 the Board now knows that provision is made for larger
4 clearcuts in support of wildlife habitat and you
5 indicated in your earlier evidence that having those
6 larger clearcuts could be driven by the needs of
7 wildlife habitat?

8 A. Absolutely, although I don't consider
9 a 200-acre clearcut as a kind that would generate a
10 boom and crash, I'm talking about --

11 Q. What about 370 acres or 500 acres?

12 A. Nor would I consider that to be a
13 factor in boom and crash. I think we're talking about
14 thousands of acres and the way it is placed on the
15 landscape where the wildlife relationships are such
16 that a great increase in forage would allow populations
17 to increase beyond the capacity of the entire area, and
18 then as that feeding went down through successional
19 stages then the wildlife populations would, in effect,
20 crash.

21 MR. MARTEL: Can I ask you a question.
22 Are you saying to us that these really are exceptions
23 to the rule and, therefore, that the general pattern of
24 cut in the United States sticks much closer to the
25 figures which you gave us last week?

1 THE WITNESS: Absolutely. The average
2 clearcut sizes, for example, includes these exceptions
3 which are, you know, considerably larger. So these
4 would be considered an exception to the rule.

5 MR. COSMAN: Q. And you expressed your
6 concern that in terms of wildlife crashing you would be
7 concerned if you had clearcuts of thousands of acres?

8 A. Yes. Again, you know, I'm not a
9 wildlife biologist but the biologists that were
10 advising me on what was happening on private lands
11 adjacent to national forests, that that was a negative.

12 It wasn't the matter of just providing a
13 lot of wildlife feed, which it did, but the
14 consequences of providing that feed in such a spacial
15 distribution and frequency.

16 Q. I would like now to go to the role of
17 forest management agreements, and I think you've quite
18 fairly admitted that you haven't, I don't believe, even
19 seen a forest management agreement.

20 A. I don't know that I have. In Ontario
21 you're saying?

22 Q. That's right.

23 A. That's true.

24 Q. And so you're not familiar as to how
25 forest management agreements operate in the Province of

1 Ontario?

2 A. I'm certainly only remotely familiar
3 with that.

4 Q. Okay. I want you to assume that that
5 forest management agreements deal with the integration
6 of road access, harvesting, regeneration and
7 maintenance and the planning of these, and that under
8 the Ontario system these are the subject of contracts
9 between the Ministry of Natural Resources and forest
10 industry companies.

11 Would I be right that there is no similar
12 experience to this in the United States?

13 A. I really don't think so. And what
14 you describe is what I understood to be the case here
15 and in some of the other provinces.

16 Q. And you cannot comment before this
17 Board obviously on the success of the program in
18 Ontario?

19 A. No.

20 Q. All right. Let me see if I can
21 understand in terms of principle as to what you would
22 agree with - and I know you have a different kind of
23 system in the United States - but would I be right that
24 you would want the regulator, the Ministry of Natural
25 Resources, to have the ultimate approval of timber

1 management plans prepared under such a program as a
2 matter of principle?

3 A. As a matter of principle, yes.

4 Q. Okay. Would you also agree as a
5 matter of principle that -- or let me ask you this:
6 Would you support independent audits of the operations
7 of forest industry companies pursuant to these forest
8 management agreements? Would that be a good idea?

9 A. I think that has a positive role
10 perhaps in combination with audits of the Ministry for
11 Natural Resources. So the answer is yes but, you know,
12 not by itself necessarily.

13 Q. So you would support that the
14 Ministry of Natural Resources as regulator would also
15 audit what's happening, but you can accept it as being
16 a good idea that there be independent audits as well?

17 A. Yes.

18 Q. Okay. I would like to go to the
19 issue of chemicals if I may. And I know that you're
20 not a toxicologist, but going back to your
21 evidence-in-chief I believe that you indicated that the
22 U.S. Forestry Service considers chemicals as a safe and
23 available tool in their forestry operations and this
24 follows an environmental impact study of their safety?

25 A. Well, I would certainly put that in

1 the context of a very limited number of chemicals, a
2 very limited application or priority of use, in fact
3 it's almost universally thought to be sort of a last
4 resort and a very strict rule of application.

5 Q. Setting aside the rules of strict
6 application, I'm going to suggest to you that chemicals
7 are an available method that the U.S. Forestry Service
8 considers as appropriate in the management of certain
9 aspects of the land base?

10 A. Within the context I described, yes.

11 Q. And, in fact, I would like to put
12 before you the report of the Forest Service, 1988.
13 You're familiar with the annual reports that are
14 prepared by the U.S. Department of Agriculture, Forest
15 Service in respect of each fiscal year?

16 A. The chiefs annual report?

17 Q. Yes.

18 A. Yes.

19 Q. And then there's a statistical backup
20 to the report itself?

21 A. Yes.

22 MR. COSMAN: And, Madam Chair, this is
23 excerpts from the Report of the Forest Service, fiscal
24 year 1988 and it's dated February, 1989. (handed)

25 MADAM CHAIR: This will be Exhibit 1784.

1 certain chemicals and applications sort of pertinent to
2 that region.

3 Q. Okay. And for 1988, just as a matter
4 of introduction, if you turn to the third page in, in
5 terms of 1988 statistics, I would just like to see what
6 we have here.

7 You'll see receipts for 1988 is
8 \$1.262-billion, expenditures for 1988 is \$2.69-billion,
9 and in terms of insect and disease suppression, if you
10 look down the list of statistics, you have 1.7-million
11 acres, in terms of reforestation you have
12 416.1-thousand acres, and is there any stats there that
13 would also speak to the use of herbicides?

14 I suppose clearly the insect suppression
15 statistics would, but would it be the -- or do you know
16 whether it's under reforestation that you would have
17 the use of herbicides reported?

18 A. Reforestation would be a possible
19 one.

20 Q. All right. Perhaps we can just
21 turn--

22 A. There are other ones there that could
23 conceivably include some kind of chemical use, for
24 example, wildlife and fish habitat improvements, there
25 might be something in grazing improvements, but I think

1 you have highlighted the principal ones.

2 Q. So then if you turn over to Table 44,
3 the pesticide use report for 1988, you'll see in the
4 left-hand column the chemical -- common name of the
5 chemical that was used that year, the purpose for use,
6 everything from noxious weed control, to wildlife
7 habitat improvement, to conifer release. You'll see
8 various purposes set out. You have quantity used in
9 pounds, and then a fourth column is units treated.

10 MR. COSMAN: And in terms of units
11 treated, Madam Chair, you'll see if you look to the
12 footnotes on the last page you're talking acres unless
13 other units are indicated.

14 Q. Now, the U.S. Forestry Service does
15 report through the chief to Congress on pesticide use
16 for each fiscal year; does it not?

17 A. It does at least through this annual
18 report.

19 Q. And you're familiar with this
20 reporting on pesticide before testifying here today?

21 A. I'm familiar with the annual report
22 process.

23 Q. And so if we go through it, you'll
24 see first herbicides on pages -- it's the fourth page,
25 which is page 161 in the top right-hand corner - it

1 doesn't come up very well - the next page 162, the next
2 page 163, in fact you see 2,4-D set out on page 163
3 which is the third page of the report - it starts
4 towards, you'll see, down the left-hand column, Madam
5 Chair - and it continues over to the following page as
6 well, and you'll see that noxious weed control plays a
7 significant -- and site preparation plays a significant
8 part in the use of 2,4-D; does it not, Mr. Smith when
9 you look at the number of pounds used?

10 A. Yes, particularly with rights-of-way
11 range management.

12 MS. SWENARCHUK: Excuse me, Mr. Cosman.
13 What page are you on?

14 MR. COSMAN: The third page in. Yes, the
15 third page in, left-hand column, starts with 2,4-D, and
16 that carries on.

17 Q. Well, apart from rights-of-way,
18 you'll see if you turn over the page, you've got
19 noxious weed control, range management and
20 rights-of-way, noxious weed control, you've got general
21 weed control, you've got site preparation, wildlife
22 habitat improvement, there's a variety of different
23 purposes for the use of that herbicide; are there not?

24 A. Yes.

25 Q. And the number of pounds used of

1 herbicides is set out on the following page 165 086.08,
2 and then if you go to insecticides on the next page
3 you'll have then a list of various insecticides that
4 are used in the United States.

5 And I take it, Mr. Smith, that under the
6 U.S. system if there has been an environmental impact
7 statement which suggests that there's something
8 dangerous to human health in the application of a
9 chemical herbicide or insecticide that it wouldn't be
10 used?

11 A. I think that's an accurate statement.
12 There's an acknowledgement that there's always danger,
13 but balanced with the public benefits --

14 Q. And, again, you'll see target pest or
15 purpose under insecticide, Madam Chair, which will take
16 you over to the last page, and you'll have at the
17 bottom of the last page grand total of pesticide use as
18 set out.

19 And are you familiar with the pattern of
20 use of chemicals in the '80s, can you testify to that?

21 A. By pattern what are you --

22 Q. Whether the use of herbicides was
23 steady in that period, in the 1980s?

24 A. My own experience is limited to the
25 west coast of the United States. I can say that during

1 the '80s in forestry there is practically no pesticide
2 use.

3 Q. So I understand that in the west
4 coast -- that when these pesticide use that is reported
5 on for 1988, this would be for the country generally
6 other than the west because, in your experience,
7 there's very little use of pesticides in the west?

8 A. The west coast was under a court
9 injunction not to use pesticides pending the completion
10 of an environmental impact statement.

11 Q. And that environmental impact
12 statement was completed?

13 A. That's correct.

14 Q. And since that environmental impact
15 study was completed, as I understand it, pesticides are
16 now an available tool even on the west coast?

17 A. That's correct, but they are very,
18 very limited in use.

19 Q. And there are -- subject to there are
20 stringent controls such as weather conditions,
21 monitoring and other kinds of controls that are
22 specified in the application?

23 A. That's correct.

24 Q. All right.

25 MADAM CHAIR: Excuse me, Mr. Smith. The

1 difference between 1.7-million acres for insect and
2 disease suppression as reported in the front versus
3 689,000 acres treated with pesticides, is that
4 difference accounted for by manual insect and disease
5 suppression?

6 THE WITNESS: That could very well be. I
7 haven't tracked -- I noticed that discrepancy myself.
8 That could be manual or some sort of mechanical method.

9 MR. COSMAN: And I would like to finish
10 off, Madam Chair, with a road funding issue and I would
11 ask you to go back to the first exhibit that I filed,
12 which was the --

13 MADAM CHAIR: The first exhibit today,
14 Mr. Cosman?

15 MR. COSMAN: No, last week. It was the
16 Forest -- I'll get you the number in one minute. It's
17 the Forest Service Planning, Setting Strategic
18 Direction Report that was prepared by the Office of
19 Technology Assessment for the Congress of the United
20 States.

21 And I would like to -- you'll see that I
22 filed excerpts from that -- I filed the whole document,
23 but I also filed excerpts, and it's really only the
24 excerpts that I want to take you to.

25 And I ask you to turn to the last page in

1 that document.

2 MADAM CHAIR: That is Exhibit 1771?

3 MR. COSMAN: 17 --

4 MADAM CHAIR: That's the full document?

5 MR. COSMAN: Yes, either 1770 or 1771,
6 page 109.

7 Q. And this deals with road funding,
8 it's the box 9(a) timber purchaser road credits?

9 A. What was that page number, again?

10 Q. 109. Now, this might be of some
11 interest in trade discussions, I think as one of the
12 members of the panel pointed out, but I would ask you
13 to look at the box 9(a) on timber purchaser road
14 credits to see if it describes accurately how the U.S.
15 road funding operates, and let me just go through it.

16 "Under the 1964 National Forest Roads and
17 Trails Act the Forest Service is
18 authorized to construct roads in the
19 national forests by requirements on
20 purchasers' of national forest timber and
21 other products including provisions for
22 amortization of road costs in contracts.
23 In practice, the Forest Service specifies
24 the location and standards for roads to
25 be built and each timber sales

1 contract estimates the construction costs
2 and grants the purchaser credits equal to
3 the estimated construction costs which
4 can then be used to pay for the timber."

5 Is that how it works?

6 A. Yes.

7 Q. Then, I carry on:

8 "There are situations where the purchaser
9 cannot use the credits, the credits are
10 ineffective. The Forest Service
11 establishes base rates as the minimum
12 cash payment per thousand board feet of
13 timber ostensibly to recover the
14 reforestation costs plus 50-cents per
15 thousand board feet. In practice, the
16 base rates are arbitrary. When the
17 timber is offered for sale, potential
18 purchasers may bid on the timber raising
19 the price of the timber, however, if the
20 bid price is at or near the base rates
21 (the minimum required cash payment) all
22 or some of the credits cannot be used to
23 pay for timber."

24 And I believe you described in your
25 testimony as to how those base rates are set?

1 A. Yes.

2 Q. This would be accurate, that if the
3 bid price is at or near the base rates all or some of
4 the credits cannot be used to pay for the timber.
5 Perhaps I will carry on--

6 A. Yes, please do.

7 Q. --just to put the context of this to
8 you.

9 "The situation is actually more
10 complicated because timber prices are
11 often adjusted after contracts are
12 signed, a standard procedure for most
13 Forest Service contracts. These timber
14 price changes can make more or fewer
15 credits ineffective depending on whether
16 prices are falling or rising. Thus, when
17 the contract is signed the purchaser may
18 not know how many of the credits can be
19 used."

20 Are you aware of that?

21 A. This sounds like a practice that is
22 almost non-existent today.

23 Q. This is the 1991 or 1990 report to
24 Congress of the Office of Technology Assessment.

25 A. Yes, I know it is. This -- as I

1 understand this statement, it refers to the contract
2 price adjustments on longer term sales that allow the
3 stumpage rates to go up or down but not below the floor
4 or the base but to go with kind of the marketplace. In
5 the long-term timber sale, I believe if it was five
6 years or more, there was these stumpage adjustments
7 breaks.

8 Now, almost all national forest timber at
9 this point is sold on a short-term basis and that
10 provision does not exist. So that, if I have this
11 right, this provision still is there, but it would be
12 very infrequently used because the term of the contract
13 is so short there would not be a stumpage adjustment.

14 Q. Well, let me carry on then:

15 "One further point needs to be made of
16 the purchaser road credits. After down
17 payment on a timber sale is made the
18 purchaser can use all the credits to pay
19 for timber before putting forth any cash,
20 thus, the credits amount to short-term
21 interest-free loans for timber
22 purchasers.

23 In addition, purchasers can transfer
24 effective credits but not ineffective
25 credits on timber sales within a national

1 forest, although they cannot be shifted
2 to another forest or to another
3 purchaser; thus, some purchasers with
4 several timber sales on one forest may be
5 able to delay making cash payments for
6 several years."

7 Would you agree with that?

8 A. I think that the concept and
9 principle is true, but to say that some purchasers may
10 continue to cut timber and not make payments for
11 several years is probably very, very unusual.

12 I can't remember in my career that that
13 ever happened. It might happen for a part of a season,
14 part of a year, but not for several years.

15 Q. So if in this report to Congress
16 there's a description of this happening it would be not
17 something that you within your experience as a manager
18 on the west coast had personal experience with in your
19 area?

20 A. That's right, and that particular
21 area is where most of the timber is cut and most of
22 this activity occurs.

23 Q. And you have not done a study of --
24 or you can't point us to a study which deals with the
25 way in which timber purchaser road credits are utilized

1 across the nation; can you?

2 A. I'm not aware of one, there could be
3 one.

4 Q. All right. Now, just perhaps, with
5 respect, to finish off on perhaps a light note, Mr.
6 Smith. Are you familiar with a group called the Irland
7 Group or, I-r-l-a-n-d Group which is a consulting group
8 in the United States?

9 A. I can't say that I am.

10 Q. It's a group who - I can produce the
11 papers - but who prepared a number of background
12 reports for various studies including the Congressional
13 study that we just referred to.

14 But in one of their alternatives - I can
15 point you to the specific provision - there's a
16 suggestion that the U.S. should consider perhaps a
17 Canadian model of their Royal Commission in dealing
18 with forestry issues in the United States.

19 Now, whether or not there should be a
20 Royal Commission or whether or not the authors would
21 think that this process that we're involved in might
22 come close to a Royal Commission, would you agree that
23 the U.S. could benefit from our experience, or have you
24 not done the kind of study and analysis that would be
25 able to lead you to any conclusion at all?

1 A. No, I think I can say that there are
2 a lot of things happening in Canada that have
3 application to the U.S. and that is one of the reasons
4 I'm here, is to share information.

5 We can learn -- in my discussions with
6 the Forest Service concerning this hearing, they
7 pointed out to me that there is a good deal of
8 interrelationship between the Ontario Ministry of
9 Natural Resources and the adjacent national forests,
10 Superior and others, there's frequent meetings as I
11 understand it.

12 The same thing can be said about British
13 Columbia and some of the other areas. So certainly
14 there is, you know, I think there's much to be learned
15 on both sides of the border.

16 Q. So the U.S. Forestry Service in
17 Milwaukee, you understand -- as a region based in
18 Milwaukee, has a pretty good relationship with what's
19 going on in this hearing?

20 A. I've been told that there are
21 frequent meetings, frequent exchanges. I think there's
22 a very positive relationship between MNR and the Forest
23 Service.

24 MR. COSMAN: Thank you very much. Those
25 are my questions, Madam Chair.

1 MADAM CHAIR: Thank you, Mr. Cosman.

2 Ms. Seaborn?

3 MS. SEABORN: Good morning, Madam Chair,
4 Mr. Martel, Mr. Smith.

5 THE WITNESS: Good morning.

6 MS. SEABORN: I would like to begin,
7 Madam Chair, by filing MOE's interrogatories in respect
8 of FFT's Panel 10 statement of evidence. That would be
9 a four-page document.

10 MADAM CHAIR: That will be Exhibit 1785.

11 MS. SEABORN: (handed)

12 MADAM CHAIR: Thank you.

13 ---EXHIBIT NO. 1785: MOE Interrogatories re: FFT Panel
14 No. 10.

15 MS. SEABORN I'm sorry, Madam Chair, that
16 number was...?

17 MADAM CHAIR: 1785.

18 MS. SEABORN: Thank you.

19 MS. SWENARCHUK: Ms. Seaborn says she
20 won't actually be referring to them now, so you may not
21 need them at the moment.

22 THE WITNESS: All right.

23 CROSS-EXAMINATION BY MS. SEABORN:

24 Q. Mr. Smith, in your evidence-in-chief
25 and in your witness statement you spent quite a bit of

1 time speaking of this issue of multi-disciplinary
2 planning as opposed to interdisciplinary planning; is
3 that correct?

4 A. Yes.

5 Q. And in your witness statement you
6 provided some commentary on the Class EA as well, and
7 the Class EA has been described in this hearing by some
8 parties as a proposal for a constraint management
9 planning system; that is, you assume normal timber
10 operations unless there's an identified value that
11 requires special consideration.

12 Now, is that your interpretation in a
13 broad sense of MNR's approach?

14 A. I can't say that is my broad
15 interpretation of the approach, but certainly the
16 documents I have looked at suggest that very strongly
17 to me, that timber is the normal and expected resource
18 value to be managed and realized and other things
19 represent constraints to that when they are discovered.

20 Q. And this is what you would term
21 functional planning?

22 A. Yes, I would.

23 Q. And, as I understand your evidence,
24 the type of planning that is being done in Ontario
25 today, based on the documents that you reviewed, is

1 similar to the type of planning that used to be carried
2 out in the U.S. national forest?

3 A. I find it based, on my review, very
4 similar.

5 Q. And I think you also said either in
6 your direct testimony or in your witness statement that
7 the transition from multidiscipline planning to
8 interdisciplinary planning in the U.S. has been at
9 times a difficult and painful process?

10 A. It has been and continues to be.

11 Q. Now, what I want to explore with you
12 briefly today is how we could, in Ontario, move to
13 interdisciplinary planning without experiencing some of
14 the difficulties that you have encountered in the U.S.
15 experience.

16 Now, since the preparation and filing of
17 the Class EA - and this is just by way of background -
18 the parties have filed with the Board now two sets of
19 terms and conditions, and you've spoken to a couple of
20 FFT's proposals in your testimony, so you're familiar
21 with the concept of terms and conditions?

22 A. Yes.

23 Q. And the proponent has filed two sets
24 of terms and conditions and made certain suggestions to
25 change and, certainly from my client's perspective,

1 improve the Class EA in areas such as public
2 involvement.

3 For example, there's a proposal now for
4 two separate open houses during the plan preparation
5 and the concept of a public stakeholders committee has
6 been recently introduced?

7 A. Yes.

8 Q. Now, I provided to you through MOE's
9 terms and conditions Appendix I, a list of what the
10 stakeholders committees would do in the Ontario system.
11 Did you have an opportunity to have a look at that?

12 A. I reviewed that this morning.

13 Q. Thank you.

14 MS. SEABORN: And, Madam Chair, I don't
15 think it's necessary for you to go to that, but just
16 for reference, Exhibit 1653 are MOE's terms and
17 conditions, and in Appendix I we have listed the
18 formation, purpose, function and duties of the
19 stakeholders committees. It's pretty well word for
20 word what was in MNR's terms and conditions in relation
21 to this proposal.

22 Q. Now, in your view, Mr. Smith, would
23 initiatives such as the formation of a stakeholders
24 committee be a positive step in making a transition to
25 interdisciplinary planning in Ontario?

1 A. Yes, I do. Transition and actually
2 conducting interdisciplinary planning.

3 Q. And so you would see this in the
4 context, if we had decided in Ontario that we had
5 multidiscipline planning and we wanted to
6 interdisciplinary planning, the stakeholders committee
7 is of assistance in reaching that goal?

8 A. In my view it would be.

9 MR. MARTEL: Can we stop there though. I
10 have a problem, because I think you said to us that
11 your planning team would not involve or include in the
12 final plan other than professional foresters or people
13 from within the Forest Service as opposed to having
14 people directly involved from the outside.

15 And I'm just not getting -- I'm not
16 certain how you intend to use that group, since they
17 would not be part of the planning process, you didn't
18 recommend having anyone in the planning process.

19 MR. FREIDIN: I think he said they
20 wouldn't be part of the planning team.

21 MR. MARTEL: That's right. Well, that's
22 essentially what I'm driving at. If they're not part
23 of the planning team, what are they?

24 MR. FREIDIN: That's a different
25 question.

1 THE WITNESS: All right. I would
2 characterize a group such as the stakeholders or a
3 consensus building group, as we might call them, not a
4 team member, but as a group in an influence on the team
5 where you'd provide formal and continuous opportunity
6 for such a group to interface or relate to the planning
7 group.

8 I did say that in the U.S. at least we do
9 not have members of the public or the interest groups
10 as members of the permanent members of the planning
11 team, but they do play an essential role in assisting
12 and advising and counselling the team as they go
13 through the entire process, beginning with basic issue
14 identification, development of inventory, development
15 of alternatives, assumptions and alternatives,
16 evaluating alternatives, reaching a kind of a consensus
17 on the final or the proposed alternative, helping with
18 the design of monitoring, and finally participating in
19 monitoring but not as a permanent official member of
20 the team.

21 MR. MARTEL: Maybe that is why - and I
22 ask this question as the devil's advocate - maybe that
23 is why so many end up in court, that in fact after
24 being on the sidelines for ever trying to influence a
25 decision, you in fact in the final analysis are nothing

1 more than - well, I don't want to say rubber stamping
2 because you might object - but if you don't perceive
3 any decision changes influenced by what you're
4 attempting to do, then it seems to me what you do is
5 you end up in the courts, and I'm not sure you're any
6 further ahead, because it seems to me it just delays
7 the final outcome anyway.

8 THE WITNESS: I think that is very
9 perceptive and a lot of that has happened. I believe
10 that the answer to that, in the context of U.S.
11 planning, is to truly involve them at the onset and
12 when a stakeholders committee or another kind of
13 advisory group, you know, hammers out a consensus, even
14 say what is needed for inventory or what kind of
15 alternatives there ought to be, then that team, you
16 know, should adopt those as the direction.

17 Now, forest supervisors, that is the line
18 officer, the decision-maker in this case, has a lot to
19 do with what happens to that advice and counsel. The
20 theory here is that the Forest Service, the U.S. Forest
21 Service is still responsible and accountable for the
22 decision.

23 These are national forests and have a
24 national purpose and usually these stakeholder type
25 committees are made up of more local people. So

1 somehow the Forest Service needs to be held a
2 accountable for the decision, if it is wrong you don't
3 go back to the stakeholders committee and say: Look,
4 you people made a mistake. The Forest Service has to,
5 you know, shoulder that responsibility.

6 Now, you know, the other alternative
7 would be to make them a part of the team. I think that
8 would work too, there's pluses and minuses.

9 MR. MARTEL: Wouldn't it work in the
10 final analysis because if you're part of the team it
11 might take a little longer to hammer out an agreement
12 but at least once you got the agreement you might have
13 resolved the possibility of other actions being taken
14 in the long run which end up in assessment and maybe
15 then in the courts and protracted delays.

16 I mean, just from my experience, I see
17 this as merely involving people, but if they don't have
18 any say in the final crunch, then I see that other
19 system is being used to further the battle, if I can
20 use that, and it doesn't matter what side we're talking
21 about, I'm just simply saying -- and so I worry about
22 that.

23 THE WITNESS: I think one thing that
24 motivates the Forest Service, and I've heard this
25 argument - and, by the way, I don't disagree with it, I

1 think it can be done both ways and you certainly have
2 outlined some advantages in doing it that way - an
3 argument I've heard about selecting a group to
4 represent the broad range of public interest and making
5 them part of the decision-making body, is that once a
6 decision is made in the U.S., and this has happened,
7 somebody that wasn't on the committee raises their
8 hand: Well, I wasn't, you, know part of this. Why
9 wasn't I allowed to be a part of this, and so you don't
10 necessarily remove all of that problem.

11 And your system and culture here in
12 Ontario may, you know, that may not be a problem. Like
13 whatever works here, you ought to try it.

14 MR. MARTEL: Well, the courts aren't used
15 as frequently here as in the United States.

16 THE WITNESS: That's true.

17 MR. MARTEL: For a variety of reasons.

18 THE WITNESS: It's very easy to get
19 standing in the United States. Almost anybody can say:
20 Well, you know, I'm being damaged or harmed by this
21 decision, and the courts have a tendency to allow them
22 to enter the judicial process.

23 MS. SEABORN: Q. Just following up from
24 that, Mr. Smith, would you agree that whether you have
25 a system where you have a planning team and you also

1 have a stakeholders committee involved, or whether you
2 put these two groups together into one team, the
3 important aspect would be that this group has a direct
4 say in setting the objectives and strategies for the
5 plan?

6 A. I feel very strongly, yes, that that
7 is important, because the stakeholders are in effect
8 the owners of the public lands, they are the citizen
9 owners and they have a right to say how those lands are
10 going to be managed.

11 Q. And in the context of the
12 interdisciplinary team that you talked about for the
13 forest plan in the U.S., I took from your evidence that
14 one side of the story, the success story of that sort
15 of planning is that you do have broad objectives and
16 goals that are set by the people who are then going to
17 move on and prepare and develop a plan?

18 A. Yes.

19 Q. And the flip side of that, from my
20 perspective, appears to be that if you don't set the
21 objectives and strategies for the non-timber values at
22 the outset of the planning process, then you would
23 naturally have a timber dominated planning process?

24 A. Yes, and that is my impression of the
25 functional -- what I've called functional planning that

1 has occurred here.

2 Q. And would you consider it a positive
3 and progressive step in the context of a transition to
4 interdisciplinary planning for MNR's planning team, the
5 public stakeholders committee, and the general public
6 to set together these quantifiable goals and objectives
7 for non-timber values directly impacted on manipulation
8 of the forest cover, so you're tying the non-timber
9 values to the forest cover that you're going to be
10 manipulating through timber management?

11 A. I think it's fair to say that, yes.

12 Q. And would it be fair to say that
13 regardless of the planning system that is ultimately
14 put in place, as a general proposition, there would of
15 necessity be a need to monitor the objectives and
16 strategies and goals to ensure that you were achieving
17 what you set out to achieve in the first instance?

18 A. I think it's very important, because
19 in forestry, even in the U.S., there is great deal of
20 uncertainty, so it would be important to monitor the
21 effects of the actions to see if they are really
22 resulting in what you set out to accomplish, yes.

23 Q. And that proposition, would you agree
24 with me, is important in any planning system regardless
25 of whether you have one person setting the goals and

1 objectives or 30 people setting the goals and
2 objectives, it's the theory that you have to then
3 monitor the goals and objectives that is significant?

4 A. I would agree with that.

5 Q. And in the context of credibility of
6 public participation, monitoring the goals and
7 objectives, especially if the public were involved in
8 setting those, would then provide a feedback of results
9 to the public that would more likely have them buy into
10 the planning process; would you agree with that?

11 A. Yes, I would. I think the agency,
12 the managing agency has a responsibility to feed back
13 to the owner and the participants in the planning
14 process, you know, the success or lack of success.

15 Q. Now, as a general proposition would
16 you agree with me that if the public is involved in
17 setting the goals and objectives, the monitoring
18 results are available to them, then the concern that
19 you have expressed in your evidence that Ontario's
20 system appears to be limited to plan review would be
21 somewhat alleviated by that sort of a process?

22 A. I think that would be a trend in the
23 right direction, yes.

24 Q. Thank you. Now, Mr. Smith, one of
25 the activities, as I understood it, that took place in

1 the U.S. national forest during the transition period
2 required a production of an integrated database and
3 there was extensive data that was collected for this
4 purpose?

5 And I'm thinking, just to be clear, in
6 the context of preparing the national forest plan for
7 Willamette Forest, for example. I think you said in
8 your evidence that there was a long period of data
9 collection in order to prepare that plan?

10 A. I wouldn't characterize it as a long
11 period. There were already considerable data
12 available; for example, a complete soil survey was
13 available.

14 The national forests have been, you know,
15 managed and developed over a long period of time and,
16 unlike part of Ontario's forest, there has been
17 activity there and access and inventory programs that
18 accumulated a great deal of data before the planning
19 even started. Understand, there were already plans
20 available or in place, and those were based on a great
21 deal of data.

22 The data collection that ensued following
23 the beginning of this phase of planning or this
24 generation of planning really was directed more at
25 issues and problems that we all hoped the plan would

1 resolve, and it might relate to threatened and
2 endangered species, or unique communities of wildlife,
3 or vegetation, it might be a more accurate inventory of
4 bodies of water and, you know, what amount of that,
5 stands of timber, a lot available through some of the
6 new technology of satellite photography and that sort
7 of thing.

8 So it wasn't just starting at ground zero
9 and collecting all the data over a long period of time
10 and then start to plan, it was kind of building up what
11 we had and beginning the planning process.

12 Q. Now, as a general proposition I'm
13 sure you would agree that the better the database, the
14 better your ability is going to be to make informed
15 decisions?

16 A. That's correct, and the more apt
17 you're able to make narrow decisions that, you know,
18 represent more the absolutes of land capability and
19 limitations.

20 Q. Now, in your witness statement you
21 commented positively on MNR's value map concept; is
22 that correct?

23 A. Yes.

24 Q. And does the U.S. Forest Service
25 require minimum baseline data prior to plan approval

1 either at the forest plan level or at the project level
2 for a timber sale?

3 A. There are general standards for
4 inventory for both levels. The forest plan -- you
5 know, I don't know of detailed standards that get down
6 to the detail that every forest would have it precisely
7 the same level, but there are some implied standards.

8 And then at the project level, depending
9 on the project, there would be, you know, a fairly
10 consistent array of data and information that would be
11 collected, for example, on a road location or a timber
12 sale.

13 Q. Now, returning again to the concept
14 of values maps, if you just take a look quickly at
15 Appendix IV to MOE's terms and conditions - and this is
16 again, Madam Chair, substantially the same as MNR's
17 term and condition - any items in bold are additions
18 that we have made to that term and condition, and in
19 Appendix IV it lists the type of information that would
20 be portrayed on values maps.

21 Now, would you agree that this is a
22 listing of what could possibly be out on a particular
23 piece of geography as opposed to a description of how
24 the environment is affected by timber management
25 activities?

1 A. Yes, I would.

2 Q. And would you agree that if one's
3 goal again is to move to what you've termed
4 interdisciplinary planning, that it would be useful to
5 list, in some format beyond this, the environmental
6 database that was available for making planning
7 decisions?

8 A. Yes, I would.

9 Q. And if we look at Exhibit 1753, which
10 were your Panel 10 overheads.

11 A. Yes.

12 Q. If you have the diagram with the
13 public involvement star in the middle, you can probably
14 remember, step 3 of that chart was collect data and
15 information.

16 A. Yes.

17 Q. Would you agree that the
18 identification of the environmental database would
19 assist in your step 3 or comparable step in our process
20 in terms of showing where there are gaps in the
21 database?

22 A. Yes, I would.

23 Q. So there are two purposes to
24 collecting that environmental database, to show what
25 you have and also show where the gaps are.

1 A. It would result in that, yes.

2 Q. Now, I want to, Mr. Smith, turn to a
3 slightly different topic. Clearly through your
4 evidence I think we've all realized that there's some
5 fundamental differences between Ontario and the U.S.
6 national forest, and I want to obtain your views on
7 some of these differences and see if you have any
8 further suggestions for this Board.

9 First of all - and you may have said this
10 in your evidence - what is the approximate size of the
11 population that resides in the Willamette Forest?

12 A. There's probably -- within an hours'
13 drive of the Willamette Forest there's probably 300- to
14 500,000 people. That might be an hour and a half's
15 drive, say.

16 Q. So, say, within a 200-kilometre
17 radius of the national forest, if we look at that large
18 map that was put up on the board.

19 A. Yes, right.

20 Q. Now, in northern Ontario --

21 MR. FREIDIN: Pretty fast driver, 200
22 kilometres in an hour and a half, but okay.

23 MR. MARTEL: It's a Porsche.

24 MS. SEABORN: Q. In northern Ontario,
25 Mr. Smith, we have some forest management units with

1 virtually no population, within say a 200 to
2 300-kilometre radius we maybe have 10,000 people.

3 And in areas that are sparsely populated,
4 like areas we have in northern Ontario, how would you
5 see this impacting on one's ability to gather
6 information?

7 A. I think it makes it more difficult.
8 We have national forests in our system that have much
9 less population in northeast California, eastern
10 Oregon, Alaska, Montana, Wyoming, you're talking about
11 national forests that more resemble, you know, the 10
12 to 20 to 30,000 people that might be immediately
13 accessible.

14 We have found that on those forests the
15 transition to integrated forest planning implementation
16 has been slow.

17 The Willamette forest placed in the midst
18 of a very diverse public with a diverse interest has
19 allowed the Willamette Forest to get out ahead. And
20 it's more difficult for a forest supervisor on one of
21 these more remote forests to really get a sense of the
22 total public view and priority.

23 Q. It's more difficult; isn't it, to
24 gather together the appropriate members of the public
25 to set your goals and objectives and ensure that you

1 have an appropriate representation of the views of the
2 people who live there?

3 A. That's right.

4 Q. All right. And would you agree with
5 me that in that situation the body that is responsible
6 for the management of the forest; i.e. the government,
7 and in this case MNR in particular, has a greater
8 burden on it in the context of gathering data?

9 A. That would be my view.

10 Q. Thank you. I believe, Mr. Smith, you
11 also said that in moving to the new system in the
12 Willamette Forest there was a loss of approximately 13
13 per cent of the area from timber activities.

14 I don't remember the exact per cent, but
15 it went from 53 or 51 to 38. I could pick that up for
16 you, if you wish. Within the range. I think 51 minus
17 38, 13.

18 A. 51.3 to 38 per cent.

19 Q. Okay. So we're talking in the
20 vicinity of 13 per cent?

21 A. Yes.

22 Q. And, in your view, is that 13 per
23 cent area loss equivalent to what I'd call a 13 per
24 cent productivity loss, or was some of the loss in less
25 productive areas?

1 A. I would say acre per acre it would be
2 less than 13 per cent. Some of these acres within the
3 13 per cent are actually still available for some
4 timber harvest but not the business as usual timber
5 harvest, not the normal timber harvest procedures.

6 Q. So within the 13 per cent area then
7 there would be some area that is modified operations
8 what we refer to in Ontario?

9 A. That's correct.

10 MS. SEABORN: Madam Chair, I see it's one
11 minute to twelve.

12 MADAM CHAIR: Let's break for lunch now.

13 MS. SEABORN: Thank you.

14 MADAM CHAIR: See you after lunch.

15 ---Luncheon recess at 12:00 p.m.

16 ---On resuming at 1:30 p.m.

17 MADAM CHAIR: Please be seated.

18 Ms. Seaborn?

19 MS. SEABORN: Thank you, Madam Chair, Mr.
20 Martel.

21 Q. Mr. Smith, before the lunch break we
22 were talking about some of the differences between
23 Ontario and the U.S. national forest, and another
24 difference I would like to briefly discuss is that in
25 northern Ontario we have a vast number of lakes and

1 streams, and looking at the map for the Willamette
2 National Forest it appears to me that I don't see the
3 equivalent lake and stream network.

4 Could you comment on that at all?

5 A. I would say that Willamette has quite
6 a network of streams, major rivers and streams,
7 probably the lake system would be modest compared to
8 your country.

9 I really can't compare it directly
10 because I've not been in northern Ontario. Certainly
11 it would be much less than, say, our lake states forest
12 where there's, in Minnesota many, many lakes. There
13 are lakes on the Willamette but they're limited, but
14 there are many, many streams, many of which support
15 anadromous fisheries.

16 Q. I'm not suggesting that there aren't
17 any lakes and a stream network, but one of the
18 distinguishing things about the northern Ontario boreal
19 forest is the vast network of lakes and streams that we
20 have that I think would be more equivalent to another
21 forest in the U.S. other than the Willamette. Would
22 you agree with that?

23 A. I think I would agree with that.

24 Q. And one of the things you also talked
25 about in your evidence was the importance of what you

1 call the good neighbour policy, that you don't cut
2 right up to the edge of a lake or too close to hiking
3 trails were examples you gave.

4 Now, keeping in mind the geography that
5 we have in Ontario, how would you see us implementing
6 an equivalent good neighbour policy in the context, for
7 example, of cutting up to the edge of lakes and streams
8 when we have so many to deal with?

9 A. I'm really not terribly well
10 qualified to answer that, not knowing exactly
11 distribution and relative location of lakes through
12 timber harvest areas.

13 On the Willamette plan the direction is
14 not to cut up against lakes or streams. I suppose that
15 if the lakes were compounded by a factor of five or
16 ten, that direction might be modified.

17 Because of the relative uniqueness or
18 importance of those waterways, I can't envision,
19 however, that the cutting practices wouldn't be
20 modified even if the density of the lakes were much
21 greater, modification in terms of kind of a transition
22 zone.

23 Q. Without then having specific numbers
24 then, would it sound reasonable to you that one of the
25 ways to deal with this sort of problem would again be

1 setting priorities and objectives and goals and
2 strategies to deal with this exact issue at the outset
3 of the planning process?

4 A. Yes, that would be the approach.

5 Q. And do you have any experience in the
6 Minnesota Forest in the context of how they deal with
7 lakes and streams?

8 A. Not on the ground experience, no.

9 Q. Thank you. Now, another difference
10 that I see between the national forests that you've
11 spoken of in front of the Board and Ontario is that
12 Willamette is really like an island in a larger
13 landscape.

14 If we look at the map of the U.S. that
15 you put up as Exhibit 1756, it's one national forest of
16 a number of national forests, and there's a great deal
17 of space between each national forest; correct?

18 A. Not entirely in this part of the
19 west.

20 Q. You're pointing to the northwest?

21 A. The northwest or the western coastal
22 states, the national forests tend to come down the
23 Cascade Mountains, so that both the east and the west
24 side of the Cascades are national forests or national
25 parks and they are contiguous. The boundaries were

1 simply administratively set by the Congress.

2 That would be the case also in the
3 Sierra-Nevada in California. So north and south they
4 tend to be contiguous with each other from southern
5 California right on up to the B.C. border; east and
6 west they tend to border private forest lands or
7 private range lands depending on which side of the
8 mountain they are.

9 Q. And would it be fair to say, though,
10 comparing that set up to Ontario, they may be
11 contiguous but they're not in a huge cluster the way we
12 have in the area of the undertaking?

13 What I'm getting at, in Ontario we have a
14 forest management unit and then another forest
15 management unit and all the boundaries hit one another
16 throughout the area of the undertaking?

17 A. That's the impression I get. It's a
18 matter of scale. To many folks in the United States
19 this seems like very large blocks. Relative to Ontario
20 they may not seem that large.

21 But some of these states, for example
22 California, the national forests represent 20 per cent
23 of the state's entire land base. In Oregon, Washington
24 they approach about the same numbers. In other states
25 they might be as much as 80 per cent.

1 Q. Accepting that in Ontario we have
2 forest management units that do have contiguous
3 boundaries and we have what we have called the area of
4 the undertaking, would it sound reasonable to you that
5 a method should be established of determining net
6 cumulative effects across the area of the undertaking
7 because of the vastness of the piece of geography?

8 A. I think net cumulative effects
9 applies both on that rather global basis as well as a
10 smaller landscape that might involve just one of your
11 forest districts.

12 So, yes, I think it's important at both
13 scales.

14 Q. And when you have a number of forest
15 management units the way we do in Ontario that make up
16 a larger landscape, would you agree that it's more
17 difficult to look at one management unit in isolation,
18 as compared to the Willamette where you can look at
19 that national national forest as one unit; whereas in
20 Ontario it would take many management unit boundaries
21 to make up a similar forest?

22 A. I guess as a generalization I would
23 agree with that. On the other hand, we feel the need
24 to look at the Willamette in the context of a larger
25 landscape.

1 For example, you might consider the
2 entire western part of Oregon, west of the Cascade
3 Mountains, as a bioregion and we're concerned about the
4 relationship of the Willamette to private lands and to
5 Bureau Land Management properties.

6 So that we've already told ourselves and
7 agreed that we can't plan a Willamette in isolation of
8 the surrounding national forests, private lands and
9 other jurisdictions.

10 Q. And in Ontario we may have a
11 management unit that may be as large as the Willamette
12 itself, and that may just be one management unit within
13 the area of the undertaking.

14 A. Yes.

15 Q. Now, is one way of integrating and
16 evaluating impacts of activities on different
17 management units, or even on different national forests
18 in the U.S. context, is to take like areas and apply
19 similar prescriptions for those areas?

20 And let me give you an example. If you
21 have an area that has a very high value for hunting and
22 fishing and general camping, recreation, the same
23 principles for how to deal with that area could be
24 applied no matter what management unit, or in the U.S.
25 context, national forest you're in?

1 A. I think to a large degree that is
2 true. If the physical and biological characteristics
3 of that larger area were similar--

4 Q. Yes.

5 A. --then I would say that the general
6 principles could apply across that area for particular
7 descriptions of it.

8 If one were to try to apply the
9 prescriptions for recreation or wildlife in the Pacific
10 northwest of the United States to areas of that similar
11 concern or value in the southeast part of the United
12 States, I would have less confidence in it.

13 And I'm assuming that within the boreal
14 forest there may be enough similarity, so that what you
15 describe could be done.

16 Q. Now, in your testimony last week, Mr.
17 Smith, you indicated that there were approximately
18 32,000 people to administer 191-million acres or
19 77.3-million hectares of land in the context of the
20 U.S. national forest system?

21 A. Yes.

22 Q. And based on the statistics that we
23 have seen from the Ministry and the evidence that has
24 been presented in front of the Board, are you aware
25 that in Ontario we would have substantially less people

1 available on a per acre or per hectare basis?

2 A. That's my understanding.

3 Q. And based on the documentation from
4 MNR and from this hearing that you've reviewed in
5 relation to planning systems, in your opinion, would a
6 redirection of efforts, regardless of manpower, assist
7 in the movement from multidiscipline planning to
8 interdisciplinary planning?

9 A. Would you restate the question?

10 Q. Yes. What I'm getting at is, that in
11 order to move, if we want to set as our objective to
12 move from multidisciplinary planning to integrated
13 planning, would you agree that it's not just a question
14 of having the bodies available to make that transition,
15 it's a question of determining at the outset that you
16 want to move in a new direction and setting out what
17 your strategy is going to be for that direction?

18 A. Yes, I totally agree with that. We
19 have a good example in the United States of that very
20 circumstance.

21 The Bureau of Land Management manages a
22 vastly larger acreage of wildlands. Granted they are
23 not intentionally managed, but they do it with far
24 fewer employees and they still manage for multiple use
25 and they still practice integrated resource planning.

1 Q. And so the flip side of that would be
2 that if you had all the people in the world available
3 to conduct a certain activity, if you don't have that
4 strategic direction and a particular goal in mind and
5 everyone is clear on what the goal is, then you're not
6 going to get anywhere, even if you have all those
7 people at your disposal?

8 A. That's correct.

9 MS. SEABORN: Thank you. Thank you,
10 Madam Chair, Mr. Martel. Thank you, Mr. Smith.

11 THE WITNESS: Yes.

12 MADAM CHAIR: Thank you, Ms. Seaborn.

13 Mr. Freidin?

14 MR. FREIDIN: Can I have a couple of
15 minutes to set up?

16 MADAM CHAIR: Yes.

17 MR. FREIDIN: Can we start, Madam Chair,
18 by filing a set of interrogatories as the next exhibit,
19 please.

20 MADAM CHAIR: That will be Exhibit 1786,
21 Mr. Freidin.

22 MR. FREIDIN: (handed) I'll read into
23 the record the interrogatories which are contained in
24 that package, Madam Chair.

25 They are the following interrogatories.

1 For OFAH, 8, 18, 25, 26, and 32; for OFIA, 5, 8, 10, 11
2 and 13; for Ministry of the Environment, Interrogatory
3 7; and for MNR Interrogatories 3, 4, 5, 6, 7, 8, 19,
4 21, 26, 27, 29, 33 and 44.

5 ---EXHIBIT NO. 1786: Interrogatory package as
6 follows: OFAH Nos. 8, 18, 25, 26,
7 and 32; OFIA Nos. 5, 8, 10, 11
8 and 13; MOE No. 7; and
MNR Nos. 3, 4, 5, 6, 7, 8,
19, 21, 26, 27, 29, 33 and 44.

9 MR. FREIDIN: Now, I want to sort of pick
10 up on a theme that was, I think, common to most of the
11 cross-examiners but most explicit through Ms.
12 Seaborn's, and that is a comparison of the United
13 States Forest Service versus certain aspects of what
14 happens in Ontario.

15 And for that purpose, Madam Chair, I have
16 prepared a chart which is entitled: Comparison of USFS
17 and OMNR. It's a two-page document. The first page
18 has some information and the second page is entitled
19 Sources, and indicates the source of the information
20 which is contained on the first page.

21 And I would ask that that be made the
22 next exhibit.

23 MADAM CHAIR: That will be Exhibit 1787.

24 ---EXHIBIT NO. 1787: Two-page document entitled:
25 Comparison of U.S. FS and
OMNR prepared by MNR.

1 MR. FREIDIN: (handed)

2 CROSS-EXAMINATION BY MR. FREIDIN:

3 Q. And, Mr. Smith, it may be that you
4 are unable to confirm this information, and that is all
5 right, but I would just ask you, just for the purpose
6 of the record, you note on the first page of Exhibit
7 1787 that the area of the two jurisdictions are
8 indicated and there's an indication I think that 36 per
9 cent of the Ontario land base is taken up with the area
10 of the undertaking.

11 Are you able to confirm that?

12 A. Yes, I do. The 8 per cent of the
13 U.S. base is not reflective of individual states,
14 however. The national forest system tends to be
15 clustered in certain states.

16 Q. Right.

17 A. So it's -- you're comparing a
18 province to the United States, and there might be --
19 well, there's quite a bit of difference between a
20 province and a state comparison.

21 Q. But I take it in terms of the
22 percentage of the Ontario land base which is taken up
23 by the area of the undertaking, you aren't able to
24 confirm or deny the accuracy of the percentages?

25 A. On the Ontario side?

1 Q. Yes.

2 A. I accept whatever you say.

3 Q. Okay. Now, we looked at the budget
4 and you'll note that the budget figures for -- first of
5 all, can you confirm that the information for the
6 budget figures for the USFS is approximately accurate?

7 A. Yes, it is. It runs between two and
8 3-billion depending on how one calculates it.

9 Q. All right. And we have approximately
10 a quarter of that budget for all MNR programs according
11 to the chart.

12 For timber funding, the information that
13 we have which indicates that approximately 19.3 per
14 cent of the total USFS budget is for timber funding
15 comes from the United States Department of Agriculture,
16 Report of Forest Service in 1989.

17 First of all, would that be a good source
18 of information to try and determine the percentage of
19 the USFS budget which in fact is directed towards
20 timber funding?

21 A. United States Department of
22 Agriculture is a good source. I would have to look at
23 what goes into that number to be able to compare it
24 with, for example, what they might be talking about.

25 Q. Are you able, based on your

1 experience, to indicate whether the percentage is in
2 the ballpark in terms of the percentage that goes
3 towards timber? I don't think a whole lot rides on
4 being exactly precise, I mean, I'm trying to get orders
5 of magnitude.

6 A. Right. I think it's in the ballpark.
7 That number probably has been higher in the past and
8 maybe lower right now. The trend has been to -- that
9 timber would be a lesser part of the budget, where if
10 looked historically it probably was a higher portion of
11 the budget.

12 Q. Right. But for purposes of the 1988
13 fiscal year, would the approximate 19.3 per cent of the
14 total budget being for timber be in the ballpark?

15 A. It sounds like it's in the ballpark.
16 I can't say that for sure.

17 Q. Okay. Now, in terms of staffing --

18 MS. SWENARCHUK: Mr. Freidin, could I
19 just ask one question about this. The MNR total budget
20 that you included, is that footnote 7 to apply to the
21 total budget figure as well, or where is that figure
22 from?

23 MR. FREIDIN: The question was, and I'm
24 just asking Mr. Hogg to help me.

25 MS. SWENARCHUK: What's the point of the

1 .58-billion figure for the total MNR budget?

2 MR. HOGG: 1989 stats.

3 MR. FREIDIN: The same figure as Item No.

4 6.

5 MR. HOGG: It's Exhibit 1688 OMNR Stats,
6 1988-89.

7 MR. FREIDIN: Thank you.

8 MS. SWENARCHUK: Thank you.

9 MR. MARTEL: Does it include programs,
10 though?

11 MR. FREIDIN: It includes --

12 MR. MARTEL: Regeneration, for example
13 the amount it spent, let's say, on seedlings or
14 anything like that?

15 MR. FREIDIN: I can't answer any of this
16 information. I would take that into account and I will
17 be having to lead evidence to support what these
18 figures are.

19 All the details of them, I didn't take
20 the time to do it in that detail for the purposes of
21 the cross-examination.

22 Q. I understand that the figure for the
23 Ministry of Natural Resources includes the cost of
24 provincial parks. Am I correct that the \$2.3-billion
25 budget for the United States Forest Service does not

1 include the cost of your national park system?

2 A. That's correct.

3 Q. In terms of staffing, there is quite
4 a difference in terms of the staffing, on the
5 assumption that if you look at the MNR column regular
6 probationary and unclassified staff, if that equates
7 approximately to what you describe under the USFS as
8 permanent, full-time and seasonal staff, there's a
9 considerable difference in terms of the staff; would
10 you agree?

11 A. If they're equivalent, that's
12 correct.

13 Q. All right. When I look at those
14 three columns, in a nutshell, it seems to indicate that
15 in Ontario we are dealing, in terms of the area of the
16 undertaking, with about half of the area of your entire
17 Forest Service with approximately one tenth of the
18 staff. And are you able to confirm my mathematics?

19 A. The mathematics look good.

20 Q. Right.

21 A. Just what is done by these two groups
22 of people I think might reflect something different.

23 Q. Okay. And in terms of budget, it
24 looks like about one quarter of the budget.

25 A. It appears that way.

1 Q. Now, assuming that those people are
2 doing relatively the same sort of things in terms of
3 the resources that they're managing, would you agree
4 that the difference in terms of the staff and the
5 difference in terms of the budget could reasonably
6 result in a different intensity of management of those
7 resources.

8 A. Intensity, yes.

9 Q. If we go down to wood production,
10 this is an issue I think which was raised by the Board,
11 you were able to provide the information in terms of
12 the United States Forest Service regarding the
13 percentage of the growing stock and the percentage of
14 the actual supply coming off national forests, and that
15 is what I think are represented in the left-hand column
16 accurately; is that correct?

17 A. As I recall, it's about right.

18 Q. And the numbers are considerably
19 higher for the area of the undertaking in terms of the
20 growing stock and the amount of supply actually
21 provided to mills?

22 A. Yes.

23 Q. And could I refer you to Exhibit 1781
24 which is the proposed new regulations for the USFS
25 planning.

1 MR. LINDGREN: What's the exhibit number?

2 MR. FREIDIN: 1781.

3 MS. SWENARCHUK: Madam Chair, perhaps I
4 might as well raise this question now. As I look at
5 Exhibit 1688 --

6 MADAM CHAIR: 1687.

7 MS. SWENARCHUK: It appears to me the --

8 MADAM CHAIR: Are you talking about --
9 which one, Ms. Swenarchuk?

10 MS. SWENARCHUK: The exhibit cited as the
11 source of the staffing figures. It appears to me that
12 the lists are not comparable.

13 I would simply like to request that Mr.
14 Freidin look at certain questions which I'll outline
15 for him at the break with regard to what the staffing
16 figures indicate.

17 MR. FREIDIN: Sure.

18 Q. And before we -- or would you turn to
19 page 6522, please. And if you go to the middle
20 column -- see that middle column?

21 A. Yes.

22 Q. And go down to the very first full
23 paragraph where it refers to paragraph (d) it says:

24 "Would provide the regional forester with
25 the discretion to determine the level and

1 type of analysis needed to adequately
2 disclose tradeoffs and make an informed
3 decision."

4 A. Yes.

5 Q. Now, I'm going to come back to that
6 paragraph later, but if you go down to the fifth last
7 line at the bottom of that column an example is given
8 and it says:

9 "The analysis needed to support forest
10 plan decisions on a forest intensively
11 managed for wildlife and recreation
12 values, but with little or no commercial
13 timber resources, would be considerably
14 different from the analytical needs for a
15 major timber producing forest with
16 economically dependent communities and
17 highly controversial commodity
18 tradeoffs."

19 When I read that, Mr. Smith - and I read
20 that after I had looked at these statistics that we
21 just went through - it struck me that it would not be
22 surprising and, in fact, it may be reasonable having
23 regard to what the United States Forest Service have
24 said here, that you would see what appear to be an
25 emphasis or more intensity in terms of the management

1 of timber in the Ontario setting as opposed to compared
2 to recreation, for instance?

3 A. It's my impression that based on the
4 documents I've reviewed that there is more emphasis on
5 timber in Ontario than the majority of national
6 forests. That is not to say that there hasn't been
7 intense timber management on some national forests in
8 the U.S., but I think the answer to your question is
9 yes.

10 Q. All right. Now, I guess when I was
11 listening to your evidence I wasn't too sure whether
12 you were saying that solely as a matter of criticism or
13 just a matter of observation.

14 A. I think it's a matter of observation.
15 U.S. forests also have had a history of emphasis on
16 timber management.

17 Q. All right. What I'm suggesting, I
18 guess, to you is that where you have an area which is
19 being managed where in fact 87.73 per cent of mill
20 requirements come from the area being managed as
21 opposed to only 18 per cent being managed, that it is a
22 reasonable difference, that one could not criticize the
23 fact that there was an emphasis or appeared to be an
24 emphasis on timber production?

25 A. I would not compare the 18 per cent

1 to the 87 per cent. The 18 per cent is a broad average
2 made up of quite extreme situations where it runs all
3 the way from practically zero per cent to well over
4 half, possibly 80 some per cent.

5 Q. Okay.

6 A. So I wouldn't directly compare those
7 two.

8 Q. All right. And I'm going to go to
9 the Willamette plan, which I understand from your
10 evidence is an area where there's a lot of timber
11 production in relation or in comparison to a lot of
12 other national forests.

13 Before I do, don't get the impression
14 that I'm suggesting that the Ministry of Natural
15 Resources doesn't manage for these other resources and
16 doesn't give them the emphasis that the Ministry of
17 Natural Resources believes they deserves, don't think
18 we manage in the absence of that, I'm not suggesting
19 that.

20 Well, let's go to the Willamette then,
21 which is an area where there is a lot of timber
22 production, and let's see how that area compares in
23 some respects.

24 You indicated to Ms. Seaborn I believe
25 that there were approximately 300- to 500,000 people in

1 the area of the Willamette Forest.

2 A. I think I said between 300 and
3 500,000 that were within an hour and a half's drive of
4 the forest.

5 Q. All right. Could you turn to Exhibit
6 1754 which is the record of decision for the
7 Willamette, please?

8 A. Yes.

9 Q. 1754B.

10 MADAM CHAIR: Which page, Mr. Freidin?

11 MR. FREIDIN: Page 9.

12 Q. Now, if we look at the first
13 paragraph under the heading in the middle of the page
14 it refers to:

15 "The primary area of forest influence of
16 the Willamette Forest including Lane,
17 Lynn and Marion Counties. These areas
18 plus the secondary zone of influence
19 contain over one million people."

20 Just stopping there. Are you able to
21 indicate to the Board what this area of primary and
22 secondary zone of influence is in terms of area?

23 A. I would say primary area of influence
24 is what I made reference to and, in my own mind, when I
25 came up with the 300- to 500,000 people it would be in

1 Lane, Lynn and Marion Counties.

2 If I extended that to the major
3 metropolitan area in Oregon, which is Portland, then
4 you would arrive at that million number.

5 Q. All right. So the million there for
6 the primary and the secondary zone of influence would
7 include the population of Portland?

8 A. That would be my assumption.

9 Q. Okay. And Portland, it says here, is
10 an area which depends on the Willamette as an important
11 recreation area.

12 A. It's not as important as other
13 national forests, but it is important.

14 Q. But according to this it says that:
15 "The forest is an important recreational
16 area and source of forest products for
17 residents of the Portland metropolitan
18 area."

19 Would you agree with that?

20 A. I think that's fair to say,
21 particularly for recreation.

22 MADAM CHAIR: Excuse me, Mr. Smith. How
23 far is Portland from the Willamette Forest?

24 THE WITNESS: The northern regions of the
25 Willamette National Forest are probably about close to

1 a hundred miles, a hundred miles, plus or minus, it
2 would be to reach the northern most boundary of the
3 forest.

4 MR. FREIDIN: Q. Now, could we just turn
5 to page 11 of the record of decision, 1754B, and there
6 is reference on page 11, about a third of the way down
7 the page to trails.

8 A. Yes.

9 Q. And as I read that material, am I
10 correct in concluding that there are approximately 1360
11 miles of established and maintained trails in the
12 Willamette Forest?

13 And by maintained, maintained at
14 different levels but nonetheless, 1360 miles of trails
15 for the purposes of recreational hiking and that sort
16 of thing?

17 A. That's correct, and particularly with
18 your qualification of maintenance. Some are probably
19 not maintained and, in the strict sense of the word,
20 others are maintained by forest volunteers.

21 Q. Okay. And is the trail system in the
22 Willamette Forest one which is a part of a larger trail
23 network which runs up the western side of the United
24 States?

25 A. All national forests have trails.

1 They are largely remnants of an administrative
2 transportation system developed in the 20s and 30s for
3 protection of the forest. It was at one time much
4 larger. Roads have replaced many of those trails, but
5 the remnants are left with the addition of specifically
6 designed recreation trails.

7 Q. All right. And I guess the use by
8 the public of an extensive network of trails like that
9 play a part in the importance to which recreational
10 benefits of that kind receive when you do the
11 Willamette plan?

12 A. Yes. The trails facilitate
13 recreation and also are a recreation facility
14 themselves.

15 Q. All right. Now, I understand that
16 there is at least one scenic highway that runs through
17 the Willamette Forest; is that correct?

18 A. I think there are more than one
19 scenic highway.

20 Q. All right.

21 A. But you may have discovered the data.

22 Q. No, I don't have the data. So there
23 are more than one. And I take it that a lot of the
24 Willamette is in a mountainness region?

25 A. The Willamette is in the Cascade

1 Mountains.

2 Q. Is it fair to conclude, sir, that
3 when you are preparing a plan for a mountainness region
4 through which a number of scenic highways go, that
5 aesthetics would receive a significant amount of
6 attention in comparison to perhaps national forests
7 with different topography and different use?

8 A. I think the relative priority
9 assigned to a visual resource would be greater in the
10 description you provided of the Willamette, but the
11 visual resource is present on every acre of national
12 forest land and is accounted for in the integrated
13 planning process.

14 Q. I think you would agree that the
15 amount of use, the number of people that travel through
16 the forest, the vistas that they would see based on
17 where the roads and things were, would dictate the
18 amount of emphasis or intensity of management -- active
19 management that would be required to in fact deal with
20 the issue and concern of aesthetics?

21 A. Yes. I think I mentioned the process
22 by which we determined that. Looking at the visual
23 resource, just the physical biological aspect,
24 overlaying that with sensitivity which would mean the
25 availability and the number of people and the kind of

1 people and the kind of experience that they were
2 involved in. Those combined would then be used by the
3 planners to decide how that visual resource would be
4 managed.

5 Q. At an extreme, if you had an area
6 where nobody ever went and was never expected to go,
7 the concern about aesthetics would be a little bit
8 difficult. I mean that's the extreme.

9 A. Yes.

10 Q. Just to make the point.

11 A. I don't think we have that situation,
12 but that could be.

13 Q. Okay, thank you. When I was going
14 through the regulations for the planning on the United
15 States forests - I don't think you have to look at this
16 unless you want to - in Section 2.19.12(e)(i), and this
17 is in the 1982 regulations?

18 A. 19.2(i)?

19 Q. (e) sub. 2.19.11(e) -- you're right,
20 12. 2.19.12(e)(i). I will just read it to you, it's
21 very short. It talks about:

22 "Benchmark analysis to define the range
23 within which alternatives can be
24 constructed...", it says,

25 "...as a minimum, the analysis of the

1 management situation shall include the
2 following:

3 1) benchmark analysis to define the range
4 within which alternatives can be
5 constructed."

6 And then it had this comment:

7 "Budgets shall not be a constraint."

8 When I read that as a requirement of the
9 regulations, I asked myself - and perhaps you can
10 answer the question for me - when we look at a United
11 States forest management plan, are we to assume that
12 the alternatives that we see have been prepared in
13 accordance with this regulatory provision and,
14 therefore, budgets were not a constraint when preparing
15 them?

16 A. No, that is an incorrect assumption.
17 Benchmarks as defined here were developed to determine
18 what the capability, the limitations of the lands were,
19 actual alternatives were then measured with budgets in
20 mind.

21 Now, it's true that they prescribe that
22 this be done initially without budget in mind. This
23 gives you the world that is possible without concern
24 for budget. Now, obviously budget is a concern and as
25 actual alternatives and the range of alternatives were

1 developed, budget becomes a constraint.

2 You may have noticed also that one of the
3 criticisms of national forest planning in the critique
4 and part of the response of the Forest Service is to
5 pay more attention to budget levels.

6 I think there's a balance here that has
7 to be sought after. It doesn't throw budget completely
8 out, but doesn't restrain everything from budget either
9 because you need to know what you're giving up or what
10 it's going to cost.

11 Q. Why does the critique say that more
12 emphasis should be given to budget or should it?

13 A. I can only speculate on this because
14 I wasn't part of that team.

15 Q. Just based on your reading.

16 A. Right, and from my own experience, is
17 it's too easy for planners to cast up budgets that are
18 completely out of the realm of possibility because the
19 budget's not there, it never will be there, it's so
20 ideal and idealistic that the budget will never be
21 picked.

22 And I think the critique and the people
23 involved in the critique recognize that and wanted to,
24 you know, frame up that world a little bit better.

25 Q. And did you get the impression that

1 some of the public would get frustrated that plans
2 would have nice sounding objectives but then -- which
3 weren't based on budget and then they couldn't deliver
4 on them and they got frustrated with the process as a
5 result?

6 A. Sure.

7 Q. The interrogatories are Exhibit 1786
8 and can you just turn, please, to MNR No. 6.

9 MADAM CHAIR: Excuse me, which exhibit,
10 Mr. Freidin?

11 MR. FREIDIN: Exhibit 1786, these are the
12 interrogatories which we filed.

13 MR. MARTEL: Which one, No. 6 did you
14 say?

15 MR. FREIDIN: Actually, Mr. Martel, you
16 probably don't have to turn to it. This is the one
17 where you say 18 per cent of the nation's supply of
18 softwood comes from the national forests.

19 Q. Mr. Payne, who was a witness in an
20 earlier panel, made the comment to Mrs. Koven that the
21 major supplier of timber is the national forest. I
22 guess that is not correct.

23 A. That is not correct. It might be
24 correct in certain parts of the country. I did read
25 Mr. Payne's testimony, I didn't detect from the way I

1 read it that he said that.

2 Q. Yes. The reference, just for the
3 purpose of the record, is Volume 269 page 48651. Could
4 you turn to MNR 26, please.

5 MR. COSMAN: Same interrogatories?

6 MR. FREIDIN: Same exhibit number.

7 Q. This question refers to your witness
8 statement page 26, paragraph 2, where the statement was
9 made that:

10 "It is estimated that only around 5 per
11 cent of the Forest Service budget is
12 being devoted to this strategic planning
13 effort."

14 I take it you were referring to the
15 effort of preparing forest plans? Or perhaps you
16 should take a look at the witness statement to be sure.

17 A. I would have to look at the context.
18 It would either be that or the total planning effort
19 including regional guides and the RPA strategic plan.

20 Frankly, I don't remember for sure, but I
21 think I was considering only the national forest
22 planning effort as opposed to the assessment and
23 national RPA plan.

24 Q. All right.

25 A. But I think the national forest

1 planning effort is such a huge proportion of that, it
2 probably wouldn't change the percentage anyway.

3 Q. You indicate in answer (a) that the 5
4 per cent is 5 per cent of the 2 to \$3-billion annual
5 budget that we talked about earlier.

6 A. Yes.

7 Q. And question (b):

8 "Does this figure include data
9 collection, monitoring, research and
10 development, staff time and salaries?"

11 Your answer was:

12 "The 5 per cent figure includes all costs
13 associated with the planning effort."

14 Was that really saying yes or, you know,
15 I want to know whether the items which are set out in
16 the question (b) are included in all costs.

17 A. I really feel it is all costs,
18 however, research and development can include --
19 depending on your definition, that may include some
20 things outside what I would consider planning.

21 Monitoring, certainly as you go into the
22 monitoring phase, well, I don't know what it's going to
23 cost to be honest with you, it may be more or less than
24 5 per cent on an annual basis, but the production of
25 the plan and the staff time and salaries and data

1 collection, certainly some research and development and
2 some monitoring are included there.

3 MADAM CHAIR: Excuse me, Mr. Smith. When
4 you arrived at this 5 per cent figure, a lot of this
5 work was being done previously under whatever planning
6 process there was.

7 Are you saying that a 5 per cent amount
8 is what you could anticipate being the extra costs of
9 doing this type of planning?

10 THE WITNESS: No, Madam Chair. I
11 actually arrived at this number by a lot of
12 consultation with Forest Service people who had
13 generally arrived at the conclusion that we are paying
14 about 5 per cent of our annual budget into strategic
15 planning. So it's kind of an ongoing thing and as you
16 move out of one phase of planning into the next, I
17 think the 5 per cent probably carries itself forward.

18 MR. FREIDIN: Q. What's 5 per cent of
19 2-billion?

20 A. It's a lot of dollars.

21 Q. 115-million?

22 A. Probably closer to the 1.2 -- or
23 125-million, something on that order.

24 Q. Thank you. And can you turn back to
25 MNR 7, please. Now, this interrogatory MNR 7 deals

1 with the issue of community stability. The question
2 originates from page 5 of the witness statement and the
3 portion is reproduced. The first part begins:

4 "The Forest Service early on became
5 committed to the health and stability of
6 rural America."

7 I think you indicated in your evidence
8 that this concern about community stability is a policy
9 of the United States Forest Service; is that correct?

10 A. Correct.

11 Q. Now, in Item No. (c) you were asked::

12 "Are there significant differences in
13 carrying out this policy in national
14 forests in different parts of the United
15 States; and, if so, please explain."

16 And your answer was:

17 "Carrying out this policy differs around
18 the United States to the degree that
19 local circumstances related to
20 communities vary. A county that is 90
21 per cent national forest will have a
22 different relationship than does one with
23 10 per cent national forest."

24 And my question, sir, is: What effect
25 does the percentage of the county which is national

1 forest have on the implementation of the policy to
2 maintain community stability?

3 A. I don't think the policy changes, but
4 the behaviour or action of the agency might be
5 different in terms to the choices available in an
6 integrated resource management plan.

7 It doesn't alter, you know, the approach
8 one might take in planning. It's still an integrated
9 planning approach--

10 Q. Right.

11 A. --but the balance of uses, the output
12 levels within the constraints of an integrated plan
13 might vary.

14 Q. Can you expand on those choices and
15 those constraints based on the percentage of the county
16 that is in fact within the national forest?

17 A. All right. If a county were
18 developed primarily -- its economy were primarily
19 associated with timber, for example, I think there
20 would be a very high priority to continue a high level
21 of timber production but, again, within the constraint
22 of integrated planning.

23 And in fact this has been the case with
24 the Willamette National Forest, heavy dependency on
25 that forest for timber supply and a propensity on the

1 part of the Forest Service to continue high level
2 production levels. That has nonetheless been
3 constrained greatly by other kinds of objectives such
4 as biodiversity, sustainability, and that sort of
5 thing.

6 So, you know, in this framework of
7 stewardship there is, you know, a leaning towards local
8 community stability, the availability of raw material,
9 whatever it might be.

10 Where those concerns can't be met, to a
11 level that is not disruptive, the Forest Service
12 attempts to intervene with such things as the Pacific
13 Northwest strategy to work with communities to mitigate
14 those impacts.

15 Q. Okay. Now, you made the comment in
16 just your last answer and you made it throughout our
17 evidence about having to work within the constraints of
18 biodiversity and within the constraint of
19 sustainability.

20 A. Yes.

21 Q. You made that comment this morning or
22 maybe this afternoon in relation to the issue of
23 clearcuts as well. Let me just jump to that issue of
24 clearcuts for a moment.

25 You were asked by Mr. Cosman whether the

1 size of openings could be affected by a number of
2 factors, and one of the factors he put to you was the
3 socio-political factor, and you had --

4 MR. COSMAN: Socio-economic.

5 MR. FREIDIN: Q. Socio-economic, and you
6 commented that those factors could be considered but
7 they would have to be dealt with within the context of
8 biodiversity and sustainability; am I correct?

9 A. Yes.

10 Q. Now, would you agree with me, Mr.
11 Smith, that the parameters - I think those were your
12 words - the parameters of of what is acceptable
13 biodiversity and/or what is biodiversity and what is
14 acceptable from a sustainability point of view in terms
15 of either the size of openings or the capability of the
16 land, can differ from one region to another?

17 A. Yes.

18 Q. The concept is the same, but what the
19 parameters are, what's acceptable in terms of what
20 actually happens on the ground could very well differ?

21 A. Yes.

22 Q. And, therefore, I guess you would
23 agree then that the size of opening, which might be
24 within the parameters set for biodiversity or
25 sustainability, and what silvicultural practices will

1 fall within those constraints will, as well, vary from
2 one region to another?

3 A. That's fair to say.

4 Q. We can't look at some part of the
5 United States and see what the opening sizes are and
6 exactly what they have to do on the ground, just stay
7 within the paramaters and say: Well, those numbers can
8 apply to Ontario's forests. That would be an
9 unreasonable thing to do?

10 A. I think that would carry to the
11 United States as well. What is good for the Pacific
12 Northwest is not necessarily good for the southeast,
13 however, the concept and objective of biodiversity
14 might.

15 Q. Yes, that's fine. Thank you.

16 Now, as I understand your evidence, Mr.
17 Smith, in terms of planning processes, that when you're
18 dealing with the management of natural resources, that
19 you believe that it is desirable to have an overall
20 process that has at one level a decision regarding how
21 the land can or will be used based on a consideration
22 of alternatives and involvement of the public?

23 A. I think that has to be determined and
24 it has to be determined before one begins to develop
25 individual program projects such as timber or anything

1 else.

2 Q. Okay. And it's my understanding that
3 a product of such an exercise is the identification of
4 areas or zones where identified uses are permitted with
5 or without qualifications?

6 A. I would say with qualifications in
7 every case.

8 Q. Okay. And am I correct that the
9 product of such an exercise is the land use plans that
10 you prepare in the United States which you call forest
11 plans?

12 A. Establishing the purpose and
13 objectives of the lands, yes.

14 Q. Now, as I understand your system, and
15 something which would be common to a system dealing
16 with the management of natural resources, that at
17 another level you would decide specifically where,
18 when, how the actual activities would occur on the
19 ground; is that correct, they will be part of the
20 system?

21 A. Correct, although in the U.S. system
22 there would not be a functional plan for recreation or
23 timber or what have you but more of a schedule as we
24 talked about before, a display of, you know, amounts
25 and frequency and so forth.

1 Q. And I'm going to get to that in a
2 little bit more detail, but just in terms of the
3 conceptional way that planning would be done, you have
4 to -- after you have allocated lands to various uses
5 through a land use plan, what you then do at another
6 level is decided; where, when and how you're actually
7 going to carry out the activities on the ground, be it
8 in a functional plan or be it in the way you described
9 in the United States?

10 A. Yes.

11 Q. And is it fair to say that there --
12 I'm going to suggest to you there's no magic in a name,
13 and in your system you could just as easily have called
14 your national plans -- pardon me, your forest plans
15 land use plans for the forest, and you could have
16 called your project level decisions operational plans?

17 A. I think that's fair.

18 Q. And do you agree, sir, that the
19 district land use guidelines in Ontario are most like
20 the land use plans that you have in the United States;
21 that is your forest plans?

22 A. I think they come closer to
23 resembling that plan than anything else I've looked at.

24 Q. Could you turn to page 50 of your
25 witness statement, please. Actually turn to page 51,

1 please, and this may get us into what I think you were
2 perhaps wanting to touch on, and I do want to explore
3 it with you.

4 You say about 4 or 5 lines down on page
5 51:

6 "Timber goals should be determined in the
7 context of goals for all resources. When
8 that is accomplished, functional timber
9 plans can be prepared at the district or
10 unit level."

11 Now, when you refer to timber goals
12 should be determined in the context -- well, look it,
13 I'm not going to try to put words in your mouth, you
14 tell me what you meant by that. I want your evidence
15 not mine.

16 A. Okay. What I'm referring to there is
17 the process we went through in the Willamette plan,
18 that stage, you would call it your --

19 Q. District land use guidelines.

20 A. Guidelines, where timber goals were
21 determined along with goals for all the other resource
22 values, whether they be wildlife or grazing or
23 fisheries or, you know, water, whatever they might be,
24 visual resource. So that those were established in
25 concert with each other as opposed to a plan that

1 established timber goals or recreation goals sort of in
2 isolation.

3 Q. Okay. But let's assume that you have
4 in place a document, a planning exercise which in fact
5 does look at all the resources together, that does
6 develop objectives for them in concert and that they
7 get documented in a land use plan.

8 I take it that is what you mean by saying
9 that that would be an example of a timber goal being
10 determined in the context of goals for all resources?

11 A. Yes, providing there were targets for
12 each of the resource values and providing that those
13 decisions actually touched the ground; in other words,
14 were identified on the ground where they would occur.

15 Q. Right. And the way a land use plan
16 such as the one you're talking about could touch the
17 ground would be to identify areas on the ground, much
18 as you have on your Willamette map, and say: Now, this
19 area is for general forest use, this area is for
20 recreational area with other kinds of uses in here,
21 this area over there is for something else.

22 That is the way a land use plan, as I
23 understand it, touches the ground?

24 A. I think that's a fairly good
25 observation, yes.

1 Q. Okay. Now, if you've got one of
2 those plans, you then go on and say in your witness
3 statement:

4 "When that is accomplished, functional
5 timber plans can be prepared at the
6 district or unit level."

7 Now, you have described what you saw in
8 terms of documentation produced in the hearing, you
9 came to the conclusion, tentative or not, that the
10 timber management plans that you saw were functional
11 plans.

12 Now, accepting for the moment that that
13 is an accurate observation, for the purpose of my
14 question, I read this and it seems to me you're saying
15 if you've got that land use plan that you've talked
16 about there's nothing wrong with having a functional
17 timber plan such as the one that you believe is
18 produced in Ontario.

19 Now, do I misinterpret your evidence or
20 not?

21 A. No, I think in theory that's correct.
22 If you've established an integrated land use plan that
23 establishes purposes for the entire forest property and
24 has established accountable goals and targets for all
25 these things and is based on at least a minimal

1 inventory of knowing what's out there or, in the
2 absence of that, some way to backstop the inventory so
3 that one doesn't doesn't roll over resource values that
4 are, you know, discovered, then I think, yes, there's
5 nothing wrong with the functional plan as long as it's
6 within the frame work of the integrated resource plan
7 that establishes purpose.

8 Q. Right. And that integrated resource
9 management plan which would identify purpose is, in the
10 system you describe and I think through general
11 planning, would be at the higher level, it would be the
12 land use plan, the tiered plan higher up in the tier as
13 you described it?

14 A. Yes. I would just like to clarify
15 that this particular plan has gone --

16 Q. This being the Willamette?

17 A. Yes, the Willamette plan--

18 Q. Yes.

19 A. --has gone further than what I would
20 say previous plans were, in that the functional plan as
21 you and I might describe it today is really not as
22 necessary, it's more of a schedule and display of
23 activities to fulfill this plan.

24 Q. Right. But the schedule of
25 activities, the five-year schedule of activities that

1 you've talked about is a schedule basically which is
2 the result, you end up making decisions at the project
3 level in a different planning exercise than the one
4 which produced the Willamette plan where you decide
5 where, when, how you're actually going to go about
6 carrying out all the activities on the ground; right?

7 A. That's correct.

8 Q. Right.

9 A. But the direction is contained in the
10 Willamette plan.

11 Q. Right.

12 A. It sets the stage for that.

13 Q. It sets the stage, but it doesn't
14 have the specifics in terms of exactly where, exactly
15 where and exactly how the activities or the objectives
16 of the land use plan will be implemented; that is left
17 to the project level?

18 A. That's correct.

19 Q. And as I understand your evidence --
20 I think I do understand your evidence.

21 MR. FREIDIN: It would be a good time for
22 a break, Madam Chair.

23 MS. SWENARCHUK: Madam Chair, with
24 reference to Exhibit 1787 filed by Mr. Freidin, and I
25 don't believe that I can pursue a question like that

1 and deal with it in redirect because I think it's not a
2 question Mr. Smith had any information about, but when
3 I look at the source for the figures quoted for the MNR
4 staff, first of all, there's no indication in the
5 source of numbers of seasonal staff or contractual
6 staff.

7 MR. FREIDIN: That's unclassified.

8 MS. SWENARCHUK: Well, I'm not sure it
9 is.

10 MR. FREIDIN: Well, why don't we talk
11 about it over the break and I will see if I can get the
12 information on it..

13 MS. SWENARCHUK: Are you saying that
14 includes seasonal staff as well?

15 MR. FREIDIN: Well, it's my understanding
16 that it does. But, why don't we see whether we can
17 settle this without taking the time of the Board.

18 MS. SWENARCHUK: For the figures to be
19 comparable we'll have to know that they're exactly
20 comparable, and I think they're not.

21 MADAM CHAIR: Will you talk about that
22 over the break.

23 MR. FREIDIN: As I indicated, Madam
24 Chair, I'm trying to get orders of magnitude, I'm not
25 trying to get a precise percentage.

1 ---Recess at 2:40 p.m.

2 ---On resuming at 3:00 p.m.

3 MADAM CHAIR: Please be seated.

4 MR. FREIDIN: Q. Mr. Smith, you have
5 referred a number of times in your evidence to this
6 concept of tiering?

7 A. Yes.

8 Q. Could you just explain what that --
9 well, I think we have explored that to some extent in
10 terms of different levels of plans.

11 A. Yes.

12 Q. Is it fair to say that one of the
13 concerns which has arisen in the United States Forest
14 Service is that - and I think this question arises from
15 something that the Board raised the other day - that
16 sometimes when your staff are involved in doing project
17 level decisions, they're trying to achieve much broader
18 objectives set out in the land use plan and sometimes
19 members of the public, certain interest groups who are
20 not satisfied with the decision in the land use plan
21 attempt to raise at the project level land use planning
22 issues?

23 A. I think that does occur. Some people
24 never give up, would like to, you know, recycle
25 decisions.

1 In the past that has been fairly easy to
2 do because these forest land management plans were not
3 complete, therefore, the issues of purpose was still at
4 issue.

5 We anticipate, and I think the limited
6 experience we have so far, is that those challenges are
7 fairly easily dismissed. If in fact it's a challenge
8 of the purpose, there are other things that can be
9 challenged, discovery of inventory data say on a
10 threatened, endangered species.

11 Q. Give me an example of what you mean
12 when you say it's relatively easy to dismiss a
13 challenge if it's a challenge in relation to purpose?

14 A. If the core issue is whether to cut
15 timber or not, for example, on a piece of national
16 forest that has been allocated to timber and other
17 uses--

18 Q. In your land use plan.

19 A. In the land use plan.

20 Q. Right.

21 A. And somebody challenges that through
22 the administrative appeal process, the reviewing
23 officer generally can dismiss it fairly fast, just
24 simply say --

25 Q. This is through an administrative

1 appeal of a project level decision?

2 A. Yes.

3 Q. Okay.

4 A. Once that's done, it's been our
5 experience that the courts really are not too
6 interested in dealing with it and they rather quickly
7 dismiss those as well.

8 Q. The basis of those kinds of
9 dispositions are, we went through a planning process,
10 we made those decisions and let's get on with
11 implementing them.

12 A. Yes.

13 Q. Okay. Now, Mr. Martel asked a
14 question the other day about the appeal process, and
15 think he was asking why are there two different sorts
16 of appeal routes, and just to make sure we all
17 understand it correctly, am I correct that there are
18 two different appeal routes, as it were, because we are
19 dealing with appeals from two different levels of
20 planning; we have one appeal route from decisions which
21 are made in your land use plans, your forest plan
22 preparation, and then once you've got that land use
23 plan in place and you're getting down to determining
24 where, when, how you're going to carry out the
25 activity, if somebody doesn't like those kinds of

1 decisions there are some provisions in your regulations
2 that say you appeal that sort of decision this way.
3 And that's why we have two different appeal routes?

4 A. Well, I wouldn't characterize it as
5 two routes, but two levels of decision.

6 Q. Right.

7 A. The forest plan decision is a
8 recorded decision issued by the regional forester.

9 Q. Right.

10 A. And that is appealable under the
11 regulations. The district ranger in implementing this
12 plan may be appealed, something like one of his
13 decisions to have a timber sale or a road or whatever,
14 and that takes kind of the same process but at a
15 different level.

16 Q. It starts lower down so it goes
17 through a couple of levels before it gets up to the
18 level where the forest plan appeal starts; is that
19 right.

20 A. That's right. It really has --
21 there's no connection other than the fact that the
22 forest plan may set the stage for a particular decision
23 and if a member of the public considers the timber sale
24 inconsistent with his plan, that person might appeal
25 it, appeal the district ranger's decision to the forest

1 supervisor.

2 Q. Okay, good. Thank you. Would you
3 turn again to the record of decision for the Willamette
4 Exhibit 1754B and, in particular, page 5.

5 This is the section entitled Decisions,
6 and I want to just refer you to a certain portion of
7 the document in relation to this issue of tiering as I
8 read it.

9 If you look down under the heading
10 Program Decisions, and it says in the last line:

11 "A final decision may be revisited...",
12 and I think we're talking about a final decision in a
13 land use plan:

14 "A final decision may be revisited or
15 reassessed during implementation if
16 monitoring and evaluation indicate
17 fundamental changes in data or
18 information have occurred since this
19 reason of decision.

20 These decisions are not expected to
21 be routinely revisited during
22 site-specific analysis however, and these
23 decisions are as follows."

24 And I take it what that means is that the
25 decisions in the land use plan regarding the allocation

1 of land uses are not expected to be routinely revisited
2 during the preparation of your project decisions at the
3 lower level; is that correct?

4 A. I think that is what the regional
5 forester is saying here, yes.

6 Q. And this reason for decision says
7 the kinds of decisions which are not to be dealt with
8 at the lower level are the ones which are described
9 there, which include:

10 "Forest-wide goals and objectives,
11 forest-wide desired future conditions,
12 forest-wide standards and guidelines,
13 management area locations and goals,
14 management area standards and guidelines,
15 monitoring plan and evaluation process,
16 forest-wide allowable sale quantity and
17 land suitable and selected for timber
18 harvesting."

19 Would you agree, sir, that the regional
20 forester has in fact reflected the general view of the
21 Forest Service in terms of the distinctions which
22 should be made regarding the kind of decisions which
23 should be dealt with in land use plans as opposed to
24 those to be made during site-specific project
25 decision-making?

1 A. Yes.

2 Q. Thank you. In MNR No. 3, which is
3 Exhibit 1786, you were asked -- do you have that.

4 A. Yes.

5 Q. It says:

6 "Please list the Ontario Ministry of
7 Natural Resources strategic land use
8 plans, district land use guidelines and
9 timber management plans which Mr. Smith
10 has read."

11 And the answer is that you have read what
12 were deemed -- do you have that Madam Chair?

13 MADAM CHAIR: No.

14 MR. FREIDIN: It's MNR 3.

15 MADAM CHAIR: Oh, 3.

16 MR. FREIDIN: Q. So you were asked the
17 question what documents in terms of strategic use lands
18 plans, district land use plans and timber management
19 plans you looked at or you read, and you answer:

20 "I read what was deemed relevant parts of
21 the following MNR documents", and you
22 list them.

23 Now, first of all, could you advise me
24 who was the person or persons who made the decision
25 that certain parts would be deemed relevant or not?

1 Is that something you did or something that somebody
2 else did for you?

3 A. These documents were provided for me
4 by Forests for Tomorrow and, in some cases, they
5 flagged areas that they felt were relevant to the
6 process experience that I had.

7 Q. Okay. And I'm not being critical of
8 what you read or what you didn't read, I just want to
9 get an understanding. So it says that you looked not
10 at all of those documents but parts of them which were
11 deemed relevant, relevant by Forests for Tomorrow?

12 A. Yes.

13 Q. Now, in your witness statement at
14 page 37 you make the statement in the second line:

15 "In relation to the district land use
16 guidelines...", and I take it, by the
17 way, if I look at the answer to MNR 3 you looked at
18 parts of the Fort Frances District Land Use Guideline,
19 the fourth item, and the Espanola too, I'm sorry.

20 A. Yes. Those guidelines were provided
21 to me and, you know, I can't say I read them thoroughly
22 but I read parts of them.

23 Q. Okay. Now, having done that, you say
24 on page 37 that:

25 "These guidelines are a good statement of

1 integrated policy and strategy."

2 And then you make the comment:

3 "They do not propose comprehensive
4 alternatives however."

5 Now, in terms of the Fort Frances

6 District Land Use Guidelines, I'm holding up to you,

7 Exhibit 47, which in fact is the guideline, and I take

8 it that is the document that you looked at in whole or

9 in part?

10 A. I think it is. I think it had a

11 different cover on it, different colour.

12 Q. Okay. Now, Mr. Smith - and let me

13 preface my questions or my comments or observations by

14 indicating, this is not in any way a criticism of you -

15 I take it from your answer that you were not asked to

16 and, therefore, you did not review Exhibit No. 10,

17 which is a document entitled Guideline for Land Use

18 Planning, which was testified to in Panel 1 of the

19 Ministry's case which explains the methods that one

20 should go through, the principles and the concepts that

21 should be followed in the development of the land use

22 plan in Ontario?

23 A. To my knowledge, I listed all the

24 documents, planning documents that I --

25 Q. The answer would be you did not,

1 and again, no criticism, I just want to get the record
2 straight.

3 A. I don't recall that.

4 Q. Okay. I take it, sir, that as a
5 result of your answer that you were not asked to and,
6 therefore, you did not review Exhibit 49 which is a
7 relatively thick document entitled Background
8 Information, Fort Frances District Land Use Plan, which
9 was testified to and which in fact is what it states to
10 be, a document which compiles the background
11 information which was pulled together for the purpose
12 of the land use planning exercise which resulted in
13 Exhibit 47.

14 You were not asked and, therefore, you
15 did not look at that document when you made the comment
16 that comprehensive alternatives were not considered?

17 A. To my knowledge I did not have access
18 to that document.

19 Q. I take it, sir, that when you made
20 the comment that the land use guidelines did not
21 propose comprehensive alternatives you had not reviewed
22 the document I am now showing you, Exhibit 48, the Fort
23 Frances District Land Use Plan, Proposed Policy and
24 Optional Plans.

25 This is a document, sir, which was

1 testified to which sets out a number of alternative
2 land use plans, different land use intents for various
3 areas which was sent out to the public and was the
4 subject matter of public consultation through various
5 numbers of meetings which we will discuss later.

6 I take it, sir, you were not aware of
7 those policy alternatives or those alternatives being
8 put together in a document like this and put to the
9 public?

10 A. I don't think I've seen that
11 document.

12 MR. FREIDIN: And I would like to mark as
13 the next exhibit a document entitled Summary and
14 Evaluation of Public Input, Fort Frances District Land
15 Use Plan, October, 1982. (handed)

16 MADAM CHAIR: That will be Exhibit 1788.
17 ---EXHIBIT NO. 1788: Document entitled Summary and
18 Evaluation of Public Input, Fort
19 Frances District Land Use Plan,
October, 1982.

20 MR. FREIDIN: Q. Now, this document as
21 well, Mr. Smith, I take it, that this is also a
22 document which you did not -- you were not asked to
23 look at and, therefore, you did not look at it for the
24 purposes of preparing your evidence and preparing your
25 witness statement?

1 A. I don't recall.

2 Q. I take it that means that you didn't?

3 A. Well, I saw an awful lot of material
4 but I don't recall seeing this.

5 Q. Okay. Now, let's take a look at the
6 document which we just put in, Exhibit 1788, and this
7 document, sir, is a document which was prepared. It's
8 the public consultation, it reports the results of the
9 public consultation in relation to the proposed policy
10 and optional plans which are set out in Exhibit 48.
11 That is what it is.

12 It's the document which was the second
13 last document in this series of documents, the actual
14 district land use guidelines being the last.

15 Could we look at page roman numeral (i)
16 of the executive summary, and I just want to deal right
17 now with Phase I, Background Information, and that is
18 going to be in relation to this document, Exhibit 49.

19 It says:

20 "The background information report was
21 released for the dual purpose of making
22 people aware of the planning program and
23 its scope and making available as much
24 information as possible to those who
25 expressed an interest in the program."

1 Would you agree, sir, that that is a
2 valid purpose and is similar to the beginning of the
3 process for land use planning in the United States?

4 A. I can't really compare it because,
5 you know, I've not looked at it, but I would say those
6 two points are important. They tend to solicit
7 reactive response, for whatever that's worth.

8 Q. This is reactive as opposed to
9 something else?

10 A. As opposed to -- if I'm looking at
11 that literally, I don't see it implying an active
12 participation in it as much as a reviewing and reacting
13 to process or documents. There's nothing wrong with
14 it, but that's not all.

15 Q. Right. And that's what the words
16 perhaps suggest, you would have to know about the
17 entire process to really know which way it went,
18 whether it was reactive, whether it was something
19 different or or somewhere inbetween?

20 A. That's right.

21 Q. You referred to:

22 "Techniques which were employed to
23 facilitate public participation in the
24 first phase included news releases,
25 advertisements, mail-outs, open houses

1 and meetings with interest groups.

2 By the conclusion of Phase I in the
3 planning program, a total of 563 groups
4 and individuals had been contacted, 290
5 of which remain on the active mailing
6 list."

7 Again, were the kinds of techniques which
8 were used in this phase of the land use planning
9 exercise in Ontario, Fort Frances, similar techniques
10 as those used in the United States?

11 A. All of these techniques were used in
12 the U.S.

13 Q. And it goes on and the next paragraph
14 it talks about a number of open houses and meetings
15 with interest groups, it also refers to 500 copies of
16 the background information report and about 200 copies
17 of the Citizen's Guide to MNR Land Use Planning were
18 distributed during the first phase of the program.

19 I just want to focus in on the Citizen's
20 Guide to MNR Land Use Planning, I don't intend to show
21 it to you, I don't intend to describe or discuss how
22 good or bad it is.

23 In terms of a matter of process, you made
24 the comment that you thought it would be important to
25 prepare documents in layman's languages for the public

1 trying to advise them what was going on, what the
2 process was about and getting them involved.

3 Assuming that that was the intent of the
4 Citizen's Guide, would you agree that that would have
5 been a good thing to attempt?

6 A. That's good.

7 Q. All right. If we look at the
8 background information document, Exhibit 49 -- now, I
9 asked your counsel or indicated to you that we would
10 have these -- do you have a copy for the witness? Can
11 you give the witness copies of Exhibit 49, please.

12 MR. LINDGREN: (handled)

13 MR. FREIDIN: Q. Again, because you
14 haven't looked at these and because it was not my
15 intention to have you review this in detail, I'm just
16 interested in process here.

17 If you turn to page 107. Page 107 of
18 Exhibit 49 and, again, on page 107 to 110 there's a
19 section which identifies problems and issues and
20 attempts to capsulize what those problems and issues
21 are in relation to the subject matter.

22 MR. MARTEL: What page?

23 MR. FREIDIN: 107.

24 MR. MARTEL: I think mine ends at 103
25 down at the bottom.

1 MADAM CHAIR: Where is it? How many
2 pages in the entire document, Mr. Freidin?

3 MR. FREIDIN: 119.

4 MADAM CHAIR: Could you submit to the
5 Board at the end of the day pages 104 through 119?

6 MR. FREIDIN: Sure.

7 Q. There's a section called Problems and
8 Issues, it deals with certain subject matters and says,
9 here's what we summarize and capsulize these to be, and
10 I take it you would agree that, as matter of process,
11 that is a useful thing -- a way of communicating to the
12 public the sorts of matters that maybe people would
13 probably want to focus on?

14 A. Yes, I think that is important to
15 communicate back to the public after the public has
16 participated in identification of problems and issues.

17 Q. So you've got the problems and
18 issues. If you've got other stages in this land use
19 planning process - which we'll go through - and you're
20 continually saying this is what we've put together, now
21 these are the problems and issues that we see, let's
22 have your input, what type of problems do you see and
23 let's discuss them, because we want to get them
24 involved in some of these options, that's the sort of
25 process that you would want to see?

1 A. Yes. Again, I would say that ideally
2 the process would involve the public in the
3 identification of the problems and issues.

4 Q. Yes.

5 A. And not just simply revealing them at
6 some point in the process for use later on.

7 Q. Okay. And I'm going to deal with
8 this later, but would you agree with me, sir, that even
9 within the United States Forest Service there is a
10 dilemma or question as to whether the best way to start
11 with the public is to give them something to shoot at,
12 or whether it's to give them a blank slate and say
13 let's start from scratch together.

14 A. I think our experience is argued that
15 we should begin the process with the public. Outline,
16 you know, a process that we're going to follow, but
17 then instead of developing kind of a cutting block, if
18 you will, it's better to start with the public helping
19 construct that cutting block.

20 Q. Right. And we're talking now -- this
21 is in terms of your land use plans?

22 A. Yes.

23 Q. Okay. Now, just one moment.

24 Could the witness be given a copy of
25 exhibit -- all right. Looking back at Exhibit 1788,

1 Phase II, Phase II is described and Phase II is this
2 document here, Mr. Smith, it's the Proposed Policy
3 Options and Plans which were prepared after the
4 background information document.

5 There was public input and then this
6 document was prepared. So that is the first time you
7 see actual proposed policy options or alternatives is
8 after the public has been involved. It says that, in
9 the second line under the heading Phase II:

10 "Public review and comment was invited
11 through radio and newspaper
12 advertisements, news releases, radio
13 interviews, letters to approximately 500
14 correspondents on the active mailing
15 list, as well as personal contacts to
16 groups and organizations."

17 Again,
18 techniques which I believe are common to
19 the process followed in the United States for your land
20 use planning exercise?

21 A. Yes. I think those techniques were
22 used following the public's participation in developing
23 the options.

24 Q. Okay. Now, it says:

25 "Six open house sessions and eight

1 meetings with special interest groups
2 were held across the district to display
3 and discuss the planning options."

4 And it looks like there was an increase
5 in terms of the amount of involvement in comparison to
6 the first phase. It says on the top of page 2 that:

7 "Approximately 300 people attended the
8 open sessions...", there was 70 the first
9 time:

10 "...and many discussed the planning
11 options with Ministry staff either in
12 person or by phone after the open
13 houses had taken place."

14 And it goes on and talks about
15 distribution of materials.

16 Did you use open house sessions in the
17 United States?

18 A. Yes, we did. Yes.

19 Q. It indicates in the next paragraph on
20 that page No. 2 that:

21 "Two issues which attracted the greatest
22 attention in the public submissions were
23 provincial park candidates...", and

24 pardon me but,

25 "...the use of Crown lands and waters by

1 non-residents."

2 Now, this was 1980, this was a long time
3 ago. Two issues which attracted the greatest attention
4 are identified. Would it be fair to say that as a
5 result of that you would expect to see these issues
6 receiving the most attention or documentation in the
7 materials which were prepared as a result of that?

8 A. Well, I wouldn't want to say they
9 received the most, but certainly should be dealt with
10 to the satisfaction of the people holding that concern.

11 Q. Okay.

12 A. I can see other overlying issues for
13 MNR of sustainability and, you know, the basic land
14 ethics and statutes that MNR has to follow.

15 Q. All right. Would you turn to page 1
16 and I've just got a couple of more pages of this and
17 I'm finished with it.

18 Page 1 of the document under the heading
19 Introduction, go down about five -- six lines, it says:
20 Section C.

21 Section C provides a summary and analysis
22 of input received from the public including tabular
23 breakdowns of how respondents felt about major issues.

24 Section D is a summary of the
25 modifications which were made to the optional plans and

1 draft strategies and describes the degree to which the
2 changes reflect public input.

3 Now, without going to those, as a matter
4 of process, Mr. Smith, would you agree that that is
5 exactly the sort of process that you would advocate,
6 where you report in a form which you think is
7 understandable to the public what their input was
8 understood to be, you indicate what response you were
9 making and, in this case, they made a modification and
10 they were explaining how the modification was linked to
11 the public input.

12 As a matter of process that sounds to me
13 to be pretty well exactly what you were advocating in
14 your evidence?

15 A. I think so.

16 Q. If you go to page 18 under the
17 heading Modifications to Optional Plans/Draft Strategy
18 Based on Public Input, the document now in relation to
19 the land use planning exercise says:

20 "The Fort Frances draft plan represents a
21 compromise position considering public
22 input and the mandate of the Ministry of
23 Natural Resources. Expressed otherwise,
24 district staff has been as responsive as
25 possible to the public input that was

1 received considering the overall need to
2 reasonably honour each of the programs
3 for which MNR is responsible."
4 If you go down to the third paragraph it
5 says:

6 "Following is an explanation of and
7 supporting rationale for the course of
8 action selected to deal with each of the
9 major land use planning issues."

10 And, again, I don't think it's
11 appropriate that we go through and try to comment on
12 whether you like exactly what the results of the
13 analysis was.

14 As a matter of process, sir, would you
15 agree that what in fact has happened here is exactly
16 what you have advocated would be a proper process to
17 follow for the purposes of developing a land use plan
18 and providing documentation for the public?

19 A. Yes, with one condition.

20 Q. Yes.

21 A. I don't understand completely what the
22 so-called mandate of MNR is with respect to reasonably
23 honouring each of the programs for which MNR is
24 responsible.

25 Let me give you an example of what

1 happens in the United States or has happened; and, that
2 is, the agency takes on a mandate of its own, and it's
3 not surprising because the Forest Service was long time
4 a timber agency that concentrated on timber harvest and
5 that, after all, was the historical mandate of the
6 people, if you will.

7 I think there was a great deal of
8 reluctance and hesitation to change that might be
9 called compromise, but we found ourselves honouring
10 programs that were not necessarily statutory programs
11 but sort of balances that we historically had followed
12 and, you know, I'm wondering if the same thing may be
13 happening here. I can't say that that is the case.

14 Q. Right.

15 A. But when you talk about mandate and
16 then honouring programs, I am suspicious that what
17 you're going through is similar to what we went
18 through.

19 Q. Okay, thank you. When you were
20 giving your evidence about land use allocations and you
21 kept referring to the maps behind you from the
22 Willamette you referred to the general forest use
23 areas, the brown -- the light brown.

24 A. Yes, it is the light brown.

25 Q. Right. I don't really --

1 A. Just call it general forest.

2 Q. General forest, okay.

3 A. Yes.

4 Q. When an area was allocated to general
5 forest under your land use plan, was any -- is there
6 any further consideration of non-timber values in those
7 areas at the operational level?

8 A. Yes.

9 Q. And could you describe for me the
10 nature of that consideration; is that the special areas
11 that you talked about or just exactly what that is?

12 A. Well, no. The special areas would be
13 coloured a different colour, it would be different
14 management units and different objectives, but when a
15 timber sale or road is constructed in the general
16 forest, the interdisciplinary team at the operational
17 level now designing the project is still concerned
18 about wildlife, about fisheries, about stream
19 sedimentation, about visual resource, about access, for
20 other purposes, the whole host of other resource
21 concerns while still attempting to manage that property
22 for timber production with the kind of usual, I think
23 you would call it, kind of normal timber harvest
24 techniques and procedures.

25 Q. Normal harvesting techniques and

1 procedures. If I changed those words and said, timber
2 harvest procedures which were felt to be
3 environmentally acceptable and silviculturally sound,
4 would that be fair?

5 A. I would agree with that.

6 Q. Okay.

7 Q. You indicated in your evidence -- I
8 just have a couple of sort of pick-up points, if I can
9 call them that, in terms of this land use planning,
10 project level planning issue.

11 You said that part of the wilderness
12 areas in the United States is composed of national
13 parks; is that right?

14 A. Yes.

15 Q. Now, would you agree with me,
16 therefore, that in any jurisdiction, Ontario included,
17 wilderness is something which, as a matter of land use
18 planning, could be provided in whole or in part through
19 a parks system?

20 A. I think that's conceivable, but not
21 advisable because --

22 Q. In whole it's not advisable? I said
23 in whole or in part it could be, you said it wasn't
24 advisable.

25 Are you saying it's not advisable to do

1 even part of your wilderness through parks, or it's not
2 advisable to do the whole -- all of it?

3 A. That's right.

4 Q. Okay.

5 A. If one is to have a wilderness system
6 I think there needs to be some objectives attached to
7 that, what is wilderness for and what are you trying to
8 accomplish with wilderness, and that suggests some sort
9 of distribution of a wilderness system, some sort of
10 representation of various land forms and vegetation and
11 species and ecosystems, et cetera, and at least in the
12 United States if you were to confine it to one land
13 system or another you would not be able to round it
14 out, so to speak.

15 So in the U.S. at least the wilderness
16 system is more like conditioned to an overlay of all
17 the land systems, national forests, national parks,
18 national wildlife refuges, and the Bureau of Land
19 Management public lands, identifying areas that would,
20 in a sense, meet the total objectives of a wilderness
21 system, and then those particular jurisdictions would
22 identify those areas, get them designated by the
23 Congress and then manage them within those general
24 guidelines and purposes.

25 Q. Now, are you aware, Mr. Smith, that

1 areas have been designated as wilderness parks in
2 Ontario through a parks system planning process?

3 A. I was told that was the case.

4 Q. And this kind of decision as to
5 wilderness areas is one which is made during your land
6 use planning exercise?

7 A. Ideally it's made by the land use
8 planning exercise; that is, identify areas that should
9 be proposed for wilderness designation. Only our U.S.
10 Congress can designate them.

11 Q. Right.

12 A. However, what has happened is if
13 there's been such public demand for it, some cases the
14 Congress picks it up out of the context of forest
15 planning and designates it in advance.

16 Q. Mm-hmm.

17 A. And that has been the case for many
18 wilderness areas.

19 Q. I guess the point I'm trying to make
20 is that if Congress doesn't pick it up and designate
21 it, you make that kind of decision in the land use
22 plan, and so you see areas coloured a certain area,
23 these are going to be -- the proposed use in this area
24 is wilderness, and maybe there are no road there is
25 no -- you know, you indicate the kind of activity that

1 is allowed there; is that right?

2 A. That's right. You begin with the
3 inventory that has -- the land has the characteristics
4 that it would qualify for a designation as a wilderness
5 and then the decision has to be made, should it be
6 wilderness, and that is part of the identifying
7 purpose.

8 Q. And as an example of a kind of issue
9 you that would fall into one of those decisions which
10 are not expected to be routinely revisited during
11 site-specific analysis, would be someone coming along
12 and saying: Gee, that area is brown, it's forest use,
13 I think we should turn it into a wilderness area.

14 I take it that is the kind of decision
15 which is not expected to be routinely revisited during
16 site-specific analysis?

17 A. That's correct.

18 Q. Thank you. Would you agree, Mr.
19 Smith, that this is an accurate generalization: That
20 when you institute a new planning process for the
21 management of a natural resource or a series of natural
22 resources that you wouldn't expect that the product of
23 that process would be exactly the same in terms of its
24 goodness, it wouldn't be perhaps as good the first time
25 as it would be the second time and maybe the third

1 time?

2 A. I think as a generalization that is
3 true. The trend in the United States now is not -- is
4 probably not to start from ground zero again, and
5 you've noticed that the U.S. is really looking at more
6 of incremental change rather than putting everything up
7 for grabs and starting all over again.

8 Q. So as I read the materials, your land
9 use plans, you've gone through this long difficult
10 expensive process and you're saying: Well, the next
11 time we do this let's just sort of take a quick look
12 and see how much of it's still okay and let's just deal
13 with the differences, things that have changed and,
14 therefore, you don't think it will take as long, for
15 starters?

16 A. I think that's fair to say. The
17 system -- the process as it's beginning to develop
18 would be driven by the need for change rather than wipe
19 everything clean or bring it all back to zero and start
20 over again.

21 Q. If you had to start from zero again,
22 do you think you probably would have - having done it
23 once you probably would be able to avoid some problems
24 and perhaps do a little better job in terms of your
25 documentation the second time around?

1 A. I think we would end up with better
2 produce and of course that's, you know, what I'm trying
3 to share with MNR now, is that there is probably a
4 better way to do it than how we did it this time.

5 Q. You were asked to look at parts
6 deemed relevant of certain documents. One of the
7 documents that you looked at were parts of the Red Lake
8 Crown Management Plan.

9 You were asked specifically to comment on
10 the analysis of the areas of concern in that Red Lake
11 plan and your evidence was that the analysis in the
12 AOCs does not conform to environmental assessments in
13 the United States for projects of that type.

14 And do you recall giving that evidence?

15 A. Yes.

16 Q. Now, you did not refer to, and I take
17 it that you were not advised of the evidence which was
18 given by the Ministry of Natural Resources after the
19 Red Lake plan - evidence given by a number of
20 witnesses, including Mr. Bisschop, who happens to be
21 sitting right next to me - who filed material and gave
22 evidence as to the initiatives that the Ministry itself
23 were putting into place in an attempt to improve the
24 amount and the quality of the documentation provided
25 for in relation to areas of concern, the need to be

1 more specific in terms of the reasons that the values
2 were important and the rationale for the various
3 alternatives which were to be set out and described as
4 a means of addressing them. You weren't asked to look
5 at any of that?

6 A. I did, as a matter of fact, look at
7 several panels that were before this Board and I can't
8 recall exactly who were on them, but I did -- I do
9 recall, you know, reading, previewing some statements
10 similar to that.

11 I don't think I saw the specific outcome
12 of that in terms of a revised Red Lake plan, but I'm
13 aware that the MNR is responding to these, you know,
14 comments and advice.

15 Q. But you did not look at -- although
16 you may have reviewed certain witness statements, I
17 take it you did not review any exhibits other than the
18 ones which are referred to in MNR Interrogatory No. 3?

19 A. These are the ones that I remember
20 reviewing as specific exhibits.

21 Q. As I flip the pages these are the
22 questions I decide not to ask you.

23 A. Thank you.

24 MR. MARTEL: Keep going, keep going.

25 MADAM CHAIR: Mr. Smith, a question about

1 the wilderness issue and the allocation of land for
2 wilderness.

3 THE WITNESS: Yes.

4 MADAM CHAIR: If you had before you two
5 parcels of land, one which was a productive timber land
6 and the other which was comparable in every way but
7 wasn't good for timber would, in the United States
8 system, you be able to use as a rationale for the
9 decision that you would select the one that wasn't high
10 yield timber land, given that other circumstances were
11 the same?

12 THE WITNESS: All things being equal we
13 would certainly attempt to designate wilderness which
14 would represent the least cost in terms of other
15 benefits foregone. It seldom is that simple, of
16 course.

17 MADAM CHAIR: No, I know that.

18 THE WITNESS: But what you describe is,
19 yes, we certainly try to minimize the cost of such a
20 limiting designation.

21 MADAM CHAIR: Thank you.

22 MR. FREIDIN: Just a moment, Madam Chair.

23 Q. I think as a last general question, a
24 question in relation to this land use planning issue,
25 this exercise that I just described to you, the

1 guideline for land use planning, the background
2 information, the proposed policy and optional plans,
3 the consultation and public review and production of
4 district land use guidelines, that all took place in
5 1979 through to '83.

6 Just so we know, what were you doing down
7 in the United States with the United States Forest
8 Service in terms of land use plans in at that time?

9 A. In 1972?

10 Q. '79 through '83.

11 A. '79. We were in the initial stages
12 of this generation of planning. For example, the
13 Willamette plan -- the previous Willamette plan was
14 completed 1977 and it was being implemented, it was
15 providing the guidance for the management of that
16 national forest, then comes the National Forest
17 Management Act and the regulations and so forth, and
18 that period of time, 1979 through early 80s, was
19 getting ready for this generation of plan and some of
20 the very beginnings of it.

21 Q. Thank you. I can't not ask you at
22 least one question about even flow. All right.

23 If you could turn to page 44 of your
24 witness statement, you made the comment in the first
25 full paragraph:

1 "The environmental assessment and
2 guidelines call for sustained yield of
3 timber. What is not discussed in
4 sufficient detail is the concept of even
5 flow. Certainly it is not necessarily
6 bad forestry to practice uneven flow, but
7 the decision should be purposeful and
8 account for all the implications."

9 Could you provide me, Mr. Smith, with
10 some examples regarding the type of conditions that
11 would lead you to practice uneven flow?

12 A. Let me say that the policy of the
13 U.S. Forest Service has been to practice even flow,
14 sustained yield even flow, and it's been the subject of
15 some controversy with the timber industry.

16 Q. They call it non-declining sustained
17 yield?

18 A. That's right, non-declining sustained
19 yield and basically even flow over, you know, a
20 reasonable period of time so that timber harvest is not
21 up and down a lot. Now -- so it is the policy -- has
22 been the policy of the U.S. Forest Service to practice
23 even flow and undeclining flow.

24 There have been exceptions. Those
25 exceptions would be made from the standpoint of a large

1 insect and disease outbreak that argued for salvaging a
2 timber that had died rather than just let it go, large
3 fires have, you know, argued for the Forest Service to
4 depart from even flow.

5 There have been strong arguments on the
6 part of the timber industry that even flow should be
7 departed from when the private forest lands have been
8 cut-over and the age classes are not sufficient to
9 continue the kind of even flow to the communities, a
10 combination of private and public timber. So that is
11 where we are.

12 The implications of it, of course, are
13 that if the Forest Service deviates from even flow to
14 accelerate the regulation of the forest; that is,
15 liquidating old growth which we have a lot of and
16 getting them into a faster growing, younger, more
17 vigorous type forest which then will increase yield,
18 that -- that's been an argument that we should do that.

19 We have resisted that because of the
20 large increase in amount of production followed by a
21 decline in the impact on local communities. We don't
22 want to build up a community's economy based on a
23 temporary supply of timber and then have it fall down
24 and have idle mill capacity, unemployment and all of
25 the things that go with that, and that occurs when we

1 simply cut faster than what we grow over a period of
2 time.

3 MR. FREIDIN: I think that would be a
4 good place to stop, Madam Chair, except I would like to
5 ask the witness to look at one thing, if I might, this
6 evening. I don't think it's going to be too onerous,
7 Mr. Smith, I have no intention of you reading--

8 A. Thank you.

9 Q. --and you can tell me to look at it
10 myself. It's in relation to this issue of a roadless
11 area, and if I can just -- the question I was going to
12 ask you was, I was going to ask you if you could
13 provide a comparison of the difference and the
14 similarities between the United States forest roadless
15 areas and what is proposed in Forests for Tomorrow's
16 term and condition 32.

17 I've looked at it. I don't know whether
18 we're talking apples and oranges and that's why it's
19 hard to make a comparison, and I think if you can help
20 me on that I would appreciate it before we break.

21 Can you tell me whether you can do that?

22 A. I'm sure I can. It begins on page 27
23 of Forest for Tomorrow's --

24 Q. That's right.

25 A. Yes, I will be prepared to do that.

1 Q. Thank you very much.

2 MADAM CHAIR: Thank you. We will see you
3 at nine o'clock tomorrow morning.

4 Mr. Freidin, you'll be finished tomorrow?

5 MR. FREIDIN: I hope to be. I can't
6 guarantee it, but I'm certainly going to try.

7 MADAM CHAIR: Ms. Swenarchuk, how long
8 will you be in re-examination?

9 MS. SWENARCHUK: Very brief.

10 MADAM CHAIR: Thank you.

11 ---Whereupon the hearing was adjourned at 4:05 p.m., to
12 be reconvened on Wednesday, April 3rd, 1991,
13 commencing at 9:00 a.m.

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